

DOMESTIC VIOLENCE

A Guide to Your Rights



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DOMESTIC VIOLENCE: A GUIDE TO YOUR RIGHTS

The Pro Bono Committee of the Multnomah Bar Association - Young Lawyers Section is pleased to present **Domestic Violence: A Guide to Your Rights**.

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DISCLAIMER

This Handbook contains general advice and information but is not a substitute for an attorney. If you think you have a legal problem or believe your rights have been violated, you should contact an attorney. Attorneys can give you expert legal advice about what to do in specific situations and are trained to represent you and your interests. Attorneys who represent you are required to keep all communications confidential. That generally means your attorney cannot tell anyone, including your spouse or domestic partner, what you have told him/her, without your consent. The Domestic Violence Resources section of this Handbook contains the names, addresses and phone numbers for organizations that may be able to assist you in finding an attorney.

1. INTRODUCTION: DOMESTIC VIOLENCE

Domestic violence is about power and control. It can take the form of physical or emotional abuse. Victims of domestic violence are isolated, threatened, and psychologically, physically, and sexually assaulted by their spouses, partners, or other family members. Sometimes even a particular body movement or look can be controlling or abusive. The abuser's goal is to take physical and mental control over the relationship.

A victim of domestic abuse is not alone. Every year, Oregon domestic violence programs receive thousands of crisis calls, and in over two million homes a year, a family is impacted by domestic violence.

Even if they are not obvious victims of domestic violence, children suffer from abuse in the home. Children may learn that violence is an acceptable, normal part of a relationship. A child who witnesses domestic violence may exhibit aggressive behavior and is vulnerable to severe emotional trauma, depression, guilt, fear of abandonment, and suicidal tendencies.

The fear a victim of domestic violence experiences may create a feeling of helplessness. The victim may believe that the violence is her/his fault, that the violence will increase if s/he tries to leave the relationship, or that leaving will make support of any children impossible. There are, however, resources available for victims of domestic abuse.

This Handbook was designed to provide victims/survivors of domestic violence and service providers with information about domestic violence and possible resources. While the Handbook does contain some basic legal information, it is not a substitute for legal advice. If you have specific questions, consult the Domestic Violence Resources section, which contains a list of attorney referral agencies.

2. SAFETY PLAN

It is helpful for a victim of domestic abuse to have a plan for safety in the relationship, or a plan if s/he decides to leave the relationship. The plan should be kept in a safe place.

What should I think about if I am planning to leave my abusive relationship?

- If I decide to leave, I will _____. (Practice how to get out safely. What doors, windows, elevators, stairwells, or fire escapes would you use?)
- I can keep my purse and car keys ready and put them _____ in order to leave quickly.
- I will leave money and an extra set of keys with _____ so I can leave quickly.
- I will keep copies of important documents or keys at _____.
- If I have to leave my home, I will go _____.
- If I cannot go to the above location, I can go _____.
- The domestic violence hotline number is _____. I can call it if I need shelter.
- If it's not safe to talk openly, I will use _____ as the code word/signal to my children that we are going to go, or to my family or friends that we are coming.
- I can leave extra clothes with _____.

What are some things I should think about when dealing with an abusive partner?

- When I expect my partner and I are going to argue, I will try to move to a space that is lowest risk, such as _____. (Try to avoid arguments in the bathroom, garage, kitchen, near weapons, or in rooms without an outside exit.)
- I will use my judgment and intuition. If the situation is very serious, I can give my partner what s/he wants to try and calm him/her down. I have to protect myself until I/we are out of danger.
- I can also teach some of these strategies to some/all of my children, as appropriate.
- I will keep important numbers and change for phone calls with me at all times. I know that my partner can learn who I've been talking to by looking at phone bills, so I can see if friends will let me use their phones and/or their phone credit cards.
- I will check with _____ and _____ to see who would be able to let me stay with them or lend me money, if I need it.
- I can increase my independence by opening a bank account and getting credit cards in my own name; taking classes or getting job skills; getting copies of all the important papers and documents I might need and keeping them with _____.
- Other things I can do to increase my independence include: _____.
- I can rehearse my escape plan and, if appropriate, practice it with my children.
- If I have a joint bank account with my partner, I can make arrangements to ensure I will have access to money.

How can I get help?

- I can tell _____ about the violence and request that they call the police if they hear noises coming from my house.
- I can teach my children how to use the telephone to contact the police and the fire department. I will make sure they know the address.
- If I have a programmable phone, I can program emergency numbers and teach my children how to use the auto dial.
- I will use _____ as my code word with my children or my friends so they will call for help.

What should I do after I leave?

- I can enhance the locks on my doors and windows.
- I can replace wooden doors with steel/metal doors.
- I can install security systems including additional locks, window bars, poles to wedge against doors, an electronic system, etc.
- I can purchase rope ladders to be used for escape from second floor windows.
- I can install smoke detectors and put fire extinguishers on each floor in my home.
- I will teach my children how to use the phone to make a collect call to me if they are concerned about their safety.
- I can tell people who take care of my children which people have permission to pick them up and make sure they know how to recognize those people.
- I will give the people who take care of my children copies of custody and protective orders, and emergency numbers.
- I will consider moving to a new confidential home.

What should I take with me when I leave?

- Identification for myself and my children, including birth certificates and social security cards; school/vaccination records; money, checkbook, bank books, cash cards, credit cards; medication/prescription cards; keys - house, car, office; driver's license/car registration; insurance papers; Public Assistance ID/Medicaid Cards; passports, work permits; divorce or separation papers; lease, rental agreement or house deed; car/mortgage payment book; children's toys, security blankets, stuffed animals; sentimental items, photos; safety plan.
- It is most important to leave safely. If you must leave quickly, do not worry about gathering documents, as they are replaceable once you are in a safe place. Take only the things that might tempt you to return to the home.

3. MONEY: EMERGENCY AND COMPENSATION

Where can I get money if I decide to leave my abuser?

- You may be able to get emergency money for things such as first-month's rent, deposit at a new residence, change of locks or other security devices, a telephone answering machine, transportation to a place of safety, purchase of a used vehicle and payment of medical or utility bills.
 - If you are applying for a restraining order, you can ask for money for such necessities in the petition.
 - You can apply for temporary assistance for domestic violence survivors (TA-DVS) through Department of Human Services (DHS) (see page 8). This assistance is only available if you have children. If you have children, you may also be eligible for Temporary Assistance for Needy Families (TANF).
 - Contact welfare and social service agencies (see section 5).
- In Portland, call Multnomah Food and Shelter Line, 503-525-6400 (crisis line for assistance with emergency food and shelter).

What if I need child support?

- Child support information is available by calling Legal Aid's Child Support Helpline, 1-800-383-1222, and at www.oregonlawhelp.org and at the Oregon Department of Justice, Division of Child Support web site at <http://dcs.state.or.us>.
- You can apply for child support in a divorce/custody case or by contacting the District Attorney directly. If your child receives public assistance (TANF or Medicaid, including Oregon Health Plan), the Division of Child Support will generally establish child support unless it is not safe to your or your child to do so.

What else is available?

- You can sue your abuser for injuries. You should seek the advice of an attorney if you are thinking about suing your abuser for injuries because there may be important deadlines in your case.
- If the State of Oregon decides to prosecute your abuser, you may be able to get money if the abuser pleads guilty or is found guilty of a crime. You will submit a Victim Financial Impact statement to the court to show your monetary loss as a result of the crime. A District Attorney will help you with this.
- Oregon Department of Justice has a crime victim compensation program. You may apply for payments to help pay for medical expenses, funeral expenses, counseling, rehabilitation, loss of earnings, etc. It does not cover lost or damaged property. You need to report the crime within 72 hours of the incident to be eligible and file a claim within 6 months (these requirements may be waived for good cause). Contact the State of Oregon Department of Justice at 1-800-503-7983 or go to www.oregoncrimevictimsrights.org. Also, a victims' assistant in your local District Attorney's office may be able to help you apply for crime victim compensation. Arrest and conviction are not required before you can be eligible for crime victim compensation.

4. PROTECTING YOUR CHILDREN

In Oregon, adults have a legal responsibility for the safety and emotional well-being of their children. All of the following information applies even if the parents of the child never marry each other.

What if a child is injured in a domestic violence incident?

- Report the incident to the police.
- Take the child to a doctor or the hospital right away.
- Save any evidence of the abuse that you can locate.
- Health care providers and childcare providers, including schools, must report suspected abuse to the Department of Human Services (DHS) Child Welfare (formerly Services to Children and Families (SCF)).
- If DHS receives a report, it may begin an investigation.

What if I suspect sexual abuse?

- Report this to the police and doctors. You will likely be referred to a resource known as CARES (Child Abuse Response and Evaluation Services). At CARES, professionals will interview and examine the child to determine whether sexual abuse occurred without "tainting" the child's memory of the incident.
- It is very important not to make any suggestion of improper sexual contact to the child, or to discuss the events with the child at all. "Tainted" testimony of a child will often result in the abuser being set free, since the testimony is not reliable enough to convince a jury or judge of the offender's guilt beyond a reasonable doubt.

How do I protect my children from the abuser?

- You can ask for an award of sole custody of your children in a divorce or custody case. Oregon law says that a parent who has committed domestic violence against the children or the other parent should generally not be awarded either sole or joint custody of the children.
- You can get a restraining order against the abuser if you have been abused and request that you be awarded sole custody and that parenting time be supervised or that there be no parenting time at all. Typically, parenting time will only be restricted when the abuser has hurt the children, has serious drug or alcohol problems, or there are serious safety concerns. A restraining order is not available when the only issue is the abuse of a child, but not his or her parent.
- If the abuser has parenting time with the children as part of a court order, you may ask the court to change the order to supervised parenting time or to no parenting time at all, depending on the facts.

Will anyone take my children away?

- DHS acts to protect children from abuse, and part of this action may include removing children from a home.
- If DHS takes custody of your child, you should contact an attorney. Depending on your income, you may qualify for a court appointed attorney.

If I am a domestic violence victim/survivor, what do I tell the schools?

- If you get an order that gives you custody or parenting time of a child, notify the school authorities and your childcare provider of the order.
- Provide them with a certified copy of the order so they can follow its terms.

5. DOMESTIC VIOLENCE RESOURCES

DOMESTIC VIOLENCE EMERGENCY SHELTERS

Bradley-Angle House.....	(503) 281-2442
Clackamas Women's Services.....	(503) 654-2288
Columbia Co. Women's Resource Center.....	(503) 397-6161
Domestic Violence Resource Center	(503) 469-8620
Raphael House.....	(503) 222-6222
SafeChoice/Vancouver YWCA.....	(360) 695-0501
West Women's & Children's Shelter.....	(503) 224-7718
Yolanda House of YWCA.....	(503) 535-3269

24-HOUR CRISIS LINES & HELPLINES

National Domestic Violence Hotline.....	(800) 799-SAFE
Multnomah County Crisis Line.....	(503) 988-4888
Child Abuse Reporting Hotline.....	(503) 731-3100
Portland Women's Crisis Line.....	(503) 235-5333
Or toll-free.....	(888) 235-5333
Project UNICA.....	(503) 232-4448
Or toll-free.....	(888) 232-4448
Men's Resource Center.....	(503) 235-3433

POPULATION-SPECIFIC DOMESTIC VIOLENCE SERVICES

Asian Family Center.....	(503) 235-9396
Bradley-Angle House (sexual minorities).....	(503) 281-2442
EI Programa Hispano – Project UNICA.....	(503) 232-4448
Native American Family Healing Circle.....	(503) 288-8177
Refugee & Immigrant Family Strengthening.....	(503) 234-1541
Russian Oregon Social Services.....	(503) 777-3437
SAWERA (South Asian).....	(503) 778-7386

SUPPORT GROUPS

Bradley-Angle House.....	(503) 232-7805
Clackamas Women's Services.....	(503) 722-2366
EI Programa Hispano – Project UNICA.....	(503) 232-4448
Human Solutions.....	(503) 548-0216
Portland Women's Crisis Line.....	(503) 232-9751
Volunteers of America.....	(503) 771-5503

DROP-IN DOMESTIC VIOLENCE SERVICES

Volunteers of America.....	(503) 771-5503
Clackamas Women's Services.....	(503) 654-2288

BATTERER INTERVENTION PROGRAMS

ChangePoint.....	(503) 253-5954
Choices DVIP.....	(503) 239-7597
Men's Resource Center.....	(503) 235-3433
Women's Counseling Center.....	(503) 235-4050

IMMIGRATION REPRESENTATION

Catholic Charities Immigration Services.....	(503) 231-4866
Immigration Counseling Services.....	(503) 221-1689
IRCO.....	(503) 234-1541
Lutheran Community Services NW.....	(503) 231-7480
SOAR.....	(503) 284-3002

RESTRAINING ORDERS & STALKING PROTECTIVE ORDERS

- Multnomah County Courts..... (503) 988-3943, press 2
- Clackamas County Courts..... (503) 655-8447
- Washington County Courts..... (503) 846-3830
- Clark County (Washington)..... (360) 397-2411
- Legal Aid's Domestic Violence Project..... (503) 224-4086

POLICE AGENCIES

EMERGENCIES 911

- Non-Emergency Police Response..... (503) 823-3333
- Portland Police DV Reduction Unit..... (503) 823-0090
- Multnomah County Sheriffs Office..... (503) 255-3600

MULTNOMAH COUNTY DISTRICT ATTORNEY'S OFFICE

- Domestic Violence Prosecutor's Office..... (503) 988-3873
- Victims' Assistance Office..... (503) 988-3222
- Child Support Enforcement..... (503) 988-3150

CLACKAMAS COUNTY DISTRICT ATTORNEY'S OFFICE

- 24 Hour Victim Assistance Program..... (503) 655-8616

CUSTODY, RELEASE, PAROLE, AND PROBATION INFORMATION

- Multnomah Cty. Jail and Release Information.... (503) 988-3689
- Multnomah Cty Domestic Violence Unit..... (503) 988-5056
- Statewide VINE-Victim Information Notification (877)-674-8463

LEGAL ASSISTANCE FOR NON CRIMINAL (CIVIL) MATTERS

- Child Support Hotline..... (800) 383-1222
(Child support information for low-income Oregonians. Call Mon. 1-4 or Thurs. 9-12)
- Legal Aid's Family Law Hotline..... (503) 299-6101
(Phone advice for low-income people in Multnomah County. Call Mon. 9-12 or Tues & Thurs. 1-4)
- Lewis & Clark Legal Clinic..... (503) 768-6500
(Legal services for low-income victims/survivors)
- Legal Aid Services of Oregon – Multnomah..... (503) 224-4086
(English and Spanish)
(Legal services for low-income residents of Multnomah County)
- Legal Aid Services of Oregon – Clackamas..... (503) 648-7163
(English and Spanish)
(Legal services for low-income residents of Clackamas County)
- Legal Aid Services of Oregon – Washington..... (503) 655-2518
(English and Spanish)
(Legal services for low-income residents of Washington County)
- Modest Means Referral Program..... (800) 452-7636
(For low to moderate income people. Referrals to lower-cost attorneys)
- Oregon Law Center..... (503) 224-2414
(press 3 for a new matter)
- Oregon State Bar Referral Line..... (800) 452 7636
(Referrals to attorneys with family law experience)
- St. Andrew Legal Clinic Multnomah Cty..... (503) 281-1500
- St. Andrew Legal Clinic Clackamas Cty..... (503) 557-9800
- St. Andrew Legal Clinic Washington Cty..... (503) 648-1600

OTHER SERVICES

United Way Information & Referral.....	(503) 222-5555
Aging & Disability Services 24-hr Helpline.....	(503) 988-3646
Alcohol & Drug Helpline	(800) 923-4357
Desarrollo Integral de la Familia.....	(877) 852-5178
Linea de Ayuda.....	(877) 515-7848
IRCO Asian Family Center.....	(503) 235-9396
Insights Teen Parent Program.....	(503) 239-6996
Mult. Co. Mental Health and Addiction Services	(503) 988-4888
Metro Childcare Resource & Referral.....	(503) 253-5000
Multnomah Food & Shelter Line.....	(503) 525-6400
SafeNet for Women, Children & Teens.....	(800) 723-3638
Oregon Health Plan.....	(800) 359-9517

DHS SELF SUFFICIENCY:

SE Branch	(971) 673-2550	NE Branch	(971) 673-5722
Albina Branch	(971) 673-6900	Outer NE	(971) 673-0909
St. Johns	(971) 673-5500	Old Town	(971) 673-1400
Gresham	(503) 491-1979	Teen Srvc	(971) 673-2552
Portland Metro Processing Center	(503) 731-3100 (English)		
	(503) 673-5721 (other languages)		
Employment Related Day Care Services	(971) 673-2411		

6. RESTRAINING AND STALKING ORDERS

What is a restraining order?

- A restraining order is an order signed by a judge that basically acts to keep one person from contacting another person, and can also cover other issues like child custody.
- The laws relating to restraining orders are found in the Family Abuse Prevention Act (FAPA), Oregon Revised Statutes 107.700 – 107.735.
- A restraining order is not a criminal order, but an abuser who violates it may be charged with "contempt of court," which is punishable by jail or a fine.

What terms should I know before getting a restraining order?

- Domestic violence: abuse between family or household members.
- Abuse: causing or attempting to cause bodily injury; placing in objective fear of immediate serious bodily injury; and/or causing involuntary sexual relations by force or threat of force.
- Petitioner: the person who wants the restraining order.
- Respondent: the abuser, or the person you need protection against.

What kind of protection can I get from a restraining order?

- If you qualify for a restraining order, a judge will usually order the following types of protection if you request them. If the abuser contests the restraining order, the judge may dismiss or make changes to the order.
- A restraining order can prohibit the abuser from intimidating, molesting, interfering with, or menacing the petitioner, contacting the petitioner by mail or telephone, or coming within 150 feet of the petitioner.
- A restraining order also can prohibit the abuser from going to a specific place, such as the petitioner's house, work, school, etc.
- A restraining order can order the abuser to move out of a house rented or owned by the petitioner only or by both the abuser and the petitioner. (If the petitioner is not on the lease or does not own the house, the court can order the abuser to move out only if the parties are married.)
- A restraining order may prohibit the abuser from purchasing or possessing firearms or ammunition.
- A restraining order can grant temporary custody of children and determine a temporary parenting plan.
- A restraining order can require the abuser to provide emergency monetary assistance for the welfare of the petitioner and children in the petitioner's custody.
- A restraining order does not mean you have police watching you or your property.

Who can get a restraining order?

- Family or household members, defined as: (1) spouses or domestic partners; (2) former spouses or domestic partners; (3) adults related by blood, marriage, or adoption; (4) persons including same sex couples in an intimate relationship who live or have lived together; (5) persons including same sex couples who have been involved in a sexual relationship in the past two years; and (6) unmarried parents of minor children.

Can I get a restraining order if I am younger than 18 years old?

- Yes, but there are additional requirements:
 - The abuser must be at least 18 years old.
 - You must be the abuser's spouse or former spouse or you must have been involved in a sexually intimate relationship with each other.
 - You must bring someone 18 or older with you as your "guardian ad litem."

What if I don't qualify for a restraining order?

- You may be able to get a stalking protective order, discussed later in this section.

What kind of facts do I need to get a restraining order?

- You and the abuser must be "family or household members" as described above.
- The abuser must have abused you in the past six months. "Abuse" means causing or attempting to cause bodily injury; placing in objective fear of immediate serious bodily injury; and/or causing involuntary sexual relations by force or threat of force. Also, you must be in "imminent danger of further abuse," meaning that you are scared you will be hurt in the immediate future.

How do I get a restraining order?

- Every county has a different procedure for getting a restraining order, so check with the clerk of the court in your county to find out your county's procedure.
- The process is generally as follows:
 - Go to your county courthouse and ask the court clerk for a free preprinted application or restraining order petition.
 - Fill out the restraining order petition papers and file them (again, no charge) by returning them to the court clerk.
 - A judge will review your papers and may ask you questions about the facts of your case, (without the abuser present), usually on the same day you file the restraining order petition.
 - The judge either will grant or deny your petition.
 - If the judge grants your petition for a restraining order, s/he may decide that exceptional circumstances exist that affect the custody of a child. If so, the judge will order you and the abuser to appear and provide additional evidence at a special hearing to determine temporary custody of the child. Before that hearing, the judge may make any orders regarding the child's residence or your or the abuser's contact with the child that the judge deems appropriate to protect the child and to keep all parties safe.
 - If the judge grants your petition, the restraining order is not effective until the petition is "served" on the abuser.
 - To "serve" the abuser, someone other than yourself who is 18 or older must give the abuser the restraining order papers. The local sheriff's office can serve the restraining order on the abuser free of charge.
 - The abuser has 30 days from when s/he was served to request a hearing to challenge the restraining order.
 - A hearing will be scheduled within 21 days of the abuser's request, or five days if children are involved. (If children are involved, the judge may also schedule a separate "exceptional circumstances" hearing, as described above.)
 - You must attend any hearing set by the court or the court may dismiss (throw out) your petition.
 - The judge will listen to testimony from you, the abuser, and any other witnesses present, and will decide whether to change the restraining order, keep it in effect, or dismiss it.
 - Multnomah, Clackamas, and Washington counties have advocates available to help with completing restraining order paperwork. (These advocates cannot give legal advice.) Court facilitators, who are court employees who can assist with filling out forms and understanding court procedures, may also be available.
 - Filling out the petition and attending a hearing if the abuser challenges the petition will each take a couple hours so be prepared to spend time at the courthouse.

Multnomah CourtCare is a free child care service available at the Multnomah County Courthouse for families that must go to court.

- Always keep your copy of the paperwork, and bring it to court with you.

How do I prepare for the contested restraining order hearing and what can I expect?

- Generally, the judge will ask you to tell your side of the story. Each courtroom has a witness box, and the judge may or may not ask you to sit in the box. The judge may ask you questions.
- If you have any pictures or other documentation of the abuse, you should bring them with you and ask the judge if you can use them as evidence.
- If your abuser is there, s/he or his or her attorney can ask you questions.
- You can also ask witnesses to testify to what they know about the abuse. If you have witnesses, you should tell the court before starting on your case, because the judge may ask those witnesses to leave the courtroom so they do not hear what you or the other witnesses are saying. The judge will not accept written statements, so your witnesses must be there in person.
- Once you have finished telling your story, your abuser will be able to testify and to have witnesses testify. You can ask the abuser and/or the witnesses questions after they have finished giving their testimony.
- It's a good idea to get an attorney, and some attorneys will help you for free. In Multnomah County, Legal Aid operates the Domestic Violence Project, which provides pro bono legal help with contested restraining orders. You can contact the Domestic Violence Project from Tuesday through Friday at 503-224-4086. You can also access information and resources about domestic violence by visiting the web site www.oregonlawhelp.org and clicking the "Domestic Violence" link. Check the Domestic Violence Resources section of this handbook for a list of services available to victims of domestic violence and contact numbers.

How long does a restraining order last?

- A restraining order lasts for one year.
- You may renew the restraining order by filling out a request to renew the restraining order before the original restraining order expires. You do not need to show that you have been hurt while you had the restraining order, but a judge must find, based on facts you allege in a sworn statement, that a person in your position would reasonably fear further acts of abuse by the abuser if the order is not renewed.
- Your abuser can challenge your renewal, and the court will have a hearing.
- If your restraining order expires and you still need protection, you will have to apply for a new restraining order, and you must show that you have been abused in the past six months (same as with original restraining order).

How does a restraining order affect my children?

- If you have children with the abuser, you may ask the court to give you temporary custody of your children and to establish a temporary parenting time schedule.
- The restraining order does not establish permanent custody and parenting time. These issues must be resolved in divorce or custody cases.
- If there is already a custody order or parenting plan in place, the restraining order can change that order temporarily, if necessary to protect your or your child's safety or welfare. The court will give you a time period within which you may get the pre-existing order legally modified in accordance with the new custody order or parenting plan. If you do not have the pre-existing order modified within that time period, the temporary custody order will expire and the custody and parenting time provisions of the pre-existing order will become immediately effective.

What is a stalking protective order?

- A stalking protective order may offer protection if a person is not eligible for a restraining order, for example, when there is not or has not been an intimate relationship.
- If you qualify for a stalking protective order, the judge decides what kind of conduct is prohibited. For example, the stalking protective order may prohibit the respondent from following you, speaking to you by any means, communicating with you electronically or through a third person, coming into your visual or physical presence, or committing a crime against you.
- Depending on the type of conduct and your relationship to the respondent or respondents involved, you could qualify for both a restraining order and a stalking order at the same time. (You are not necessarily limited to one or the other.)

Who can get a stalking protective order?

- You may be eligible for a stalking protective order if someone knowingly alarms or coerces you or a member of your immediate family by repeatedly (two times or more) subjecting you to unwanted contact, if you are reasonably alarmed or coerced by the conduct, and if you are reasonably fearful for your or a family member's safety.
- "Contact" includes coming into your sight, following you, sending or giving you something in writing, committing a crime against you (like damage to your property) and other similar behavior.
- You do not have to show that you are abused, or that you have a relationship with the respondent.
- It is not enough that you are fearful; rather the judge must be convinced that anyone in a similar situation would be fearful.

How do I get a stalking protective order?

- There are two ways to get a stalking protective order: (1) through the police; or (2) through the court system.
- Through the court:
 - Each county has a different procedure for getting a stalking protective order, so check with the clerk of the court in your county to find out your county's procedure.
 - The process is generally as follows:
 - ✓ The clerk will give you a free petition for a stalking protective order, unless you are asking for money from the respondent in which case you will have to pay a fee. (Some counties do not have free petitions available from the clerk, and you may need an attorney to obtain the petition for you, or to get the stalking protective order through the police.)
 - ✓ File your petition with the clerk.
 - ✓ The judge will review the petition and decide whether to give you a temporary stalking protective order.
 - ✓ If the judge gives you a temporary stalking protective order, that order must be "served" on the respondent by delivering a copy to him/her.
 - ✓ The sheriff will serve the order on the respondent for free if you are not seeking money damages. (If you are seeking money damages, you probably will have to pay for service.)
 - ✓ The judge will schedule a hearing to determine whether to give you a permanent stalking order.
 - ✓ You should attend the hearing or the court may dismiss your petition for a permanent order.
 - ✓ If the respondent does not attend the hearing, the judge may issue a warrant for the respondent's arrest, grant the permanent stalking protective order, or postpone the hearing.

- ✓ If the respondent attends the hearing, the judge may decide more time is needed and reschedule the hearing, may issue the permanent stalking protective order, or may deny the permanent stalking protective order.
- Through the police:
 - Go to a police station and fill out a "stalking complaint" form.
 - Give the completed form to a police officer.
 - The police officer will decide whether to issue a citation. (If the police officer does not issue a citation, you can follow the court procedure described above.)
 - The citation is not a protective order; rather, it is an order for the respondent to appear at court for a hearing so a judge can decide whether to issue a stalking protective order. This means you are not protected during the time before the hearing.
 - If the police officer issues a citation, a hearing must be scheduled within three days (The court will send you a hearing date in the mail.)
 - You should attend the hearing in person or you can ask to attend by telephone.
 - If the respondent does not attend the hearing, the court may issue a warrant for his/her arrest, may issue the requested stalking protective order, or may schedule the hearing for a new date.
 - If the respondent attends the hearing, the judge may issue a temporary stalking protective order and schedule another hearing to decide whether there should be a permanent stalking protective order, may enter a permanent stalking protective order, or may refuse to enter a stalking protective order.

How are restraining and stalking protective orders enforced?

- If an order was granted and the respondent violates the restraining or stalking protective order, s/he may face criminal or contempt charges and jail or prison time.
- If you think that the respondent has violated the restraining or stalking protective order, you should call the police and tell them that you have a protective order and that you think it is being violated.
- A police officer must arrest the respondent if: (1) there is a restraining or stalking order; (2) the protective order and proof of service has been filed with the sheriff's office; and (3) the respondent has violated the terms of the order.
- You may want to keep a written record of the violations in case you are called to testify against the respondent at a criminal trial, or if the police do not arrest the respondent.
- You should contact the District Attorney and follow up on criminal or contempt charges if the abuser or stalker is arrested.

Do I need a lawyer to get a restraining or stalking protective order?

- No, you may complete the restraining and stalking order process without a lawyer. Representation by an attorney at a contested or exceptional circumstances hearing is usually a good idea.
- The State will not provide you with a lawyer, but there are many resources for contacting volunteer lawyers or advocates.
- Generally, advocates help you with getting the temporary orders and attorneys can help you if there is a hearing.

Can I ask to change or drop the order?

- Yes, you need to ask the court, and the judge may want to have a hearing to make sure you are not in danger.

Who can help me get a restraining or stalking protective order?

- Legal Aid Services of Oregon, 503-224-4086. Provides volunteer lawyers for assistance with contested restraining and stalking hearings in Multnomah County, and publishes a handbook entitled "How to Prepare for Your Contested Restraining Order Hearing" and a stalking information pamphlet, which are available at www.oregonlawhelp.org.
- Victims Assistance. Each county has a victims' assistance program. Call the County District Attorney for the contact information.
- Oregon State Bar, 800-452-4776.
- Call your local courthouse to check to see if your county has advocates or courthouse facilitators who can help you with the process.
- Check the Domestic Violence Resources section of this Handbook.

What if I have a protective order from another state?

- A protective order issued by one U.S. state or Indian tribe is valid and enforceable in another U.S. state or tribe if certain requirements are met.
- Oregon must honor a protective order from another state immediately upon your arrival in Oregon, so you do not need a new order.
- It may be a good idea to bring the foreign order to the county sheriff and ask to have the order registered in the computer system, but you do not have to do this.
- You may want to file a certified copy of the protective order, free of charge, with a county circuit court, unless it is not safe to register (registered orders are public records).

What else should I know?

- Carry the order with you always.
- Tell your children's school, and others if appropriate, that you have an order.
- Call an advocate at a victim services program - leaving your abuser is a very dangerous time.

7. DOMESTIC VIOLENCE AS A CRIME

In Oregon, there is no crime called "domestic violence." Domestic violence is usually recognized by other types of crimes. The justice system takes domestic violence seriously because it is a crime against our community and the state.

What crimes apply to cases involving domestic violence?

- Assault: any act where there is a physical injury to a victim short of death.
- Child abuse: intentionally harming a child physically or sexually, exploiting a child sexually or failing to care for a child.
- Custodial Interference: the abuser takes a child in violation of a custodial order. The abuser may also be subject to the federal Parental Kidnapping Prevention Act.
- Harassment: the abuser (1) annoys or harasses the victim by offensive physical conduct; (2) uses the telephone to threaten injury or death; or (3) scares the victim by lying about serious injury or death.
- Menacing: the abuser uses words or behavior to make the victim believe they may soon be seriously physically injured.
- Murder and manslaughter: the abuser kills the victim.
- Reckless endangerment: the abuser acts recklessly and creates a big risk of seriously injuring the victim physically.
- Sex crimes: physical contact with the victim's intimate parts without the victim's consent.
- Stalking: the abuser makes repeated unwanted contact that makes the victim fearful for the victim's or the victim's family's safety.
- Strangulation: the abuser interferes with the breathing or circulation of the victim by applying pressure to the victim's throat or neck or blocking the victim's nose or mouth.

What if my abuser tries to harass, hurt, or kill me but is not successful?

- Attempted crimes are crimes themselves.

Should the police be called when abuse happens?

- You make the decision whether to report the crime.
- If you do decide to contact the police, do it as soon as possible.

If I call the police what should I do?

- Keep yourself safe until the police arrive.
- Proof of the crime and/or injury is very important so do not clean yourself or your home until after the police arrive. Also keep any medical records, threatening messages, bloody clothes, etc.
- Write down everything you remember from the events, including what the abuser said. However, you should be careful to keep any written notes in a safe place where the abuser will not find them.
- If police do not photograph injuries at the scene, ask to make an appointment for photos or have a friend/relative take pictures.

What if I need a doctor?

- Health care providers are not obligated by law to report abuse unless a knife, gun, or other deadly weapon has been used.

Will my abuser be arrested?

- Police officers must arrest an abuser if they believe there has been domestic violence between family members or intimate partners of either sex.

If my abuser is arrested what happens?

- If the County District Attorney decides to bring criminal charges, there will be a hearing at which time the judge will decide whether the abuser will be held in custody or released until the trial. If the abuser is released, it will be with the requirement that s/he have no contact with you.
- You may contact the Victims Information & Notification Everyday system (VINE) at 1-877-OR-4-VINE or the Multnomah County Jail at 503-988-3689 to find out if the abuser is in jail.

What if I call the police and then change my mind about prosecuting the crime?

- Calling the police involves the criminal justice system, so you do not make the decision about prosecuting.
- The County District Attorney will prosecute the abuser for the crime. When a crime is committed, the crime is considered a crime against the people of the State of Oregon and not just against you.
- Once you report the abuse/crime, the State of Oregon (through the County District Attorney) decides whether to go forward with the case.
- The State does not want the abuser to hurt you or anyone else, and may go forward with the case even if you do not want the abuser to be punished.

What may happen if the State decides to go after my abuser for committing a crime?

- Victim advocates in the District Attorney's office are available to answer your questions about how the case will be handled.
- Conviction: the abuser is found guilty of the crime. His/her sentence may include probation, jail or prison sentence, and domestic violence anger management classes.
- Acquittal: the abuser is found not guilty of the crime and let go.
- Deferred sentencing program and probation: the abuser avoids jail by admitting to the crime instead of having a trial. The abuser then participates in a program that is meant to prevent future crimes and educate the abuser about anger management and domestic violence.

If my abuser goes to prison, how do I know when s/he will be released?

- If you submit a written request to the Board of Parole and Post Prison Supervision, you will be notified of parole hearings.
- You have the right to look at the information the Board will use and decide whether or not to challenge this information. If you want to challenge the information, you must do so in writing or in person.
- You have the right to be notified of ANY release of the abuser at least 30 days prior to the release. This includes weekend releases.

As a victim of a crime, what other help can I get?

- You are eligible for services from the victim assistance program. Contact your County District Attorney's office for more information. An advocate will be assigned to your case to help you with legal questions and refer you to resources and agencies. You may also be eligible for crime victim compensation through the Oregon Department of Justice. See Section 3 "Money and Emergency Compensation" on page 4 of this guide for more information.

8. ENDING YOUR MARRIAGE

How can I end my marriage?

- A divorce, called dissolution of marriage by the courts, is the way to end the marriage permanently.
- An annulment is an order establishing that a marriage never existed.
- A "legal separation" does not end the marriage, but will result in a court order determining child custody and visitation issues, property distribution, support, etc.

Why would I want a legal separation?

- You might want a legal separation if your religious beliefs go against divorce, or if you or your spouse have not lived in Oregon long enough to file for a divorce.
- Because you are married after a legal separation, you still have the legal rights associated with marriage, such as inheriting property from your spouse. If you are divorced, you lose that right.

What can be decided during a divorce?

- The date your marriage ends.
- Who gets custody of the children and when the other parent sees them.
- Who pays child support and how much.
- Who will provide health insurance for the children.
- Who should pay past bills.
- How property (including a house and retirement benefits) will be divided.
- Whether one spouse will pay spousal support to the other, and if so, the amount of support and length of time for the support.

Do I need to file for divorce if I want to get a restraining order or stalking protective order against my spouse?

- No, these are separate procedures.

Do I need a reason to get a divorce?

- No, you do not need a specific reason because Oregon is a "no fault" divorce state.
- You need only show that you and your spouse have "irreconcilable differences," meaning that you cannot solve your problems.

If I have decided to get a divorce, is it okay if I move out of my home?

- Leaving the home is an important decision, especially if you have children.
- It is best if you speak with a lawyer before making this decision.

If I decide to move out of my home, what should I take with me?

- Any clothes and personal items you want to have with you.
- If possible, take copies of all financial records.
- Take anything you think your spouse may destroy, take, or hide once you leave.
- Most property is considered part of the property of the marriage, even if you take it with you.
- If your spouse leaves, try to note what big items s/he takes.
- You may want to make a list of property that is left behind at the house.

Can I get a divorce if I just moved to Oregon?

- Probably not - either you or your spouse must have lived in Oregon for six months before filing for divorce.

- You can file for legal separation immediately, and convert to divorce after six months. However, if the children have not lived in Oregon for six months, Oregon courts may not yet have jurisdiction (power) to decide child custody.

Do I need a lawyer to get a divorce?

- It depends. While you can always represent yourself, in many situations getting the services of a lawyer is recommended.
- If the divorce is uncontested (you and your spouse agree about all the terms of the divorce), you may be able to complete much of the divorce paperwork yourself.
- If you have a very simple case (no children under 18, no debts over \$15,000, not more than \$30,000 in property, etc.) you may proceed with a "Summary Dissolution." The free forms are available at the courthouse.
- If the divorce is contested (you and your spouse disagree about how to divide the property, who should get custody of the minor children, etc.) it is more likely that you will need the services of a lawyer.
- Courthouse facilitators may be available to help with forms. You also may qualify for assistance in filling out court forms from volunteer attorneys through Legal Aid Service of Oregon's Pro Se Assistance Program if you meet the income requirements.

If I decide to get a divorce without a lawyer, what do I need to do first?

- Legal Aid Services of Oregon publishes "Family Law in Oregon", which you can use as a reference and you can go online at www.ojd.state.or.us/family to get forms and instructions.
- You will need to file forms with the court, including a "Petition for Dissolution of Marriage."

If I know that my spouse is considering divorce, should I file the papers first?

- From a legal standpoint, it does not matter who files first.
- There may, however, be some advantages for the person who files first, and you may want to discuss this issue with your lawyer.

How do I "serve" the required paperwork on my spouse after filing the Petition?

- "Service" is official delivery of the required paperwork.
- If you have a lawyer, your lawyer will take care of service.
- If you are using the court forms, the instructions will tell you how to "serve" the papers.
- Your spouse can agree to sign papers that say s/he has been served by signing an Acceptance of Service.
- If your spouse will not accept service, the sheriff or another adult (not you or your children) must personally deliver (with some exceptions) the paperwork to your spouse.
- If you cannot find your spouse to personally serve him/her, you may get the court's permission to do "alternative service." Forms and instructions for this are available from the court and on the Oregon Judicial Department web site at www.ojd.state.or.us.

Who do I need to serve?

- Your spouse.
- If you are getting welfare or certain other public benefits, the Division of Child Support (DCS) will also have to be served with the paperwork. You can call DCS to find out how to serve them with the paperwork.
- Information about serving DCS can be found at www.ojd.state.or.us/family or long on to the DCS web site at www.dcs.state.or.us/office_info/offices.htm to find your local branch office.

What if I am "served" with a Petition and related papers?

- If you agree with all the terms of the divorce as listed in the petition, you do not need to respond. It is best to speak with a lawyer before taking this step. If you don't respond, you

should get a copy of the final judgment to make sure it matched what was requested in the petition. If it does not, consult an attorney immediately.

- If you want to challenge the terms listed in the petition, you must file a written answer (called a "response") with the court within 30 days after you were handed the papers. The court charges a fee to file a response.
- You may want to file a response, even if you agree with the terms of the divorce, to give yourself more time for review with an attorney. If you reside out of state, you should speak with an attorney before filing a response.

How much does a divorce cost?

- Court costs and filing fees range from \$250 to \$450. The clerk's office at your local courthouse can tell you the costs and fees in your county.
- If you cannot afford to pay the costs and fees, you can ask the judge to waive or defer your payments to a later date. Fee waiver is available in limited circumstances, such as if you receive food stamps or are a participant in the Oregon Health Plan. Fee deferral may be available depending on your economic situation. You should bring proof of income and public assistance to the court when applying for a deferral.
- If you hire a lawyer, you will need more money. The more complex the divorce is, the more it will cost. Ask your lawyer to explain fee and billing procedures at your first conference.
- If your spouse's income is much higher than yours, the judge may order your spouse to pay your lawyer.
- If you have an income that would allow you to make monthly payments to a lawyer, call the Oregon State Bar Referral Service, 800-452-7636, to find a lawyer who offers payment plans, or call the same number and ask about the modest means program.
- If you are low income, you may be eligible for a free attorney through Legal Aid Services of Oregon. Information about legal aid offices can be found at www.oregonlawhelp.org.

How long does it take to get a divorce?

- It depends. The length of time it will take you to get a divorce depends mostly on the complexity of your case and whether you and your spouse disagree on the issues in the divorce.
- The law usually requires a 90 day waiting period before a divorce becomes final.

Can I take back my former name?

- Yes. The judge must give you back a former legal name if you ask for it in a divorce.
- If you do not get your name changed during the divorce proceedings, you will have to go through a formal court proceeding to change your name.

What is mediation?

- Mediation is a private consultation session in which a trained person tries to help you and your spouse reach an agreement. Many counties offer this as a free service through the courts.
- The judge might order both of you to go to mediation in an attempt to agree on divorce issues such as child custody and parenting time. Support and property division issues may sometimes be addressed in mediation with the written approval of parties or their lawyers.
- If this process is not appropriate for you because of safety or other concerns, you may ask that the requirement be waived.
- Your attorney may go to mediation with you if the other party agrees.
- If you do not reach an agreement in mediation, you can go to court to finish your case.

What if my spouse threatens to take the children if I file for divorce?

- You may ask the court for a temporary protective order of restraint (called a "Status Quo Order"). This gives the court the authority to stabilize the routine of the children in the proceedings. This is not a custody order and is different from a Family Abuse Prevention Act restraining order.
- The court may keep each party from:
 - Changing where the child lives.

- Interfering with the daily schedule of the child.
- Hiding the child from the other party.
- Interfering with the other parent's usual contact with the child.
- Leaving the state with the child without the permission of the other parent or the court.

If my spouse and I cannot agree who should have custody of the children, how does the court decide?

- The court makes a custody decision based on what is in the best interests of the child.
- Factors the court looks at in deciding what is in the best interests of the child are: the emotional ties between the child and other family members, the parents' attitude toward the child, continuing an existing relationship between the parent and child, and the willingness and ability of each parent to encourage a close and continuing relationship between the other parent and the child.
- If a parent is found by the court to have abused the other parent, the court will presume that it is not in the best interests of the child to award sole or joint custody of the child to the parent who committed the abuse. The abusive parent may contest this.
- Oregon tries to ensure frequent and continuing contact between a minor child and parents who have shown the ability to act in the best interest of the child, and to encourage parents to share in the rights and responsibilities of raising their child after the parents have separated or dissolved their marriage.

If my spouse or ex-spouse has sole custody, is there any way to keep him/her from moving out of state with the child?

- The court must include in the custody/parenting time order a requirement that neither parent may move more than 60 miles away from the other parent without giving the parent and the court reasonable notice.
- This will not automatically stop the parent from moving; you would have to file a court case to do so.

How will the court divide our property?

- The court must divide marital property and debts justly and equitably, which usually means an equal split of the property and debts of the marriage.

What are some resources?

- Lawyer Referral Service of the Oregon State Bar, Portland, 503-684-3763; elsewhere in Oregon, 800-452-7636.
- Modest Means Program (application required), Oregon State Bar, Portland, 503-684-3763; elsewhere in Oregon, 800-452-7636. Spanish available.
- State of Oregon Division of Child Support, recorded information, Portland, 503-229-5729; Salem and elsewhere in Oregon, 503-373-7300 (collect calls are accepted). Establishes child support orders in certain cases. www.dcs.state.or.us.
- Legal Aid's Statewide Child Support Helpline, 800-383-1222. Legal advice on child support to low income parents.
- Department of Human Services, Child Welfare, Portland, 503-731-3100. Spanish available. Conducts child abuse and neglect investigations and provides family counseling sessions and parenting classes.
- Legal Aid, www.oregonlawhelp.org (locations and numbers for legal aid offices and information about family law, domestic violence and stalking).
- Oregon Judicial Department, www.ojd.state.or.us (forms and other helpful information)

9. EMPLOYMENT

What if I am scared to go to work?

- Talk to someone in the workplace you trust, such as a friend, co-worker, supervisor, or employee assistance counselor.
- Notify security of your safety concerns. Provide a photo of the abuser and a copy of restraining or stalking orders to security, supervisors, and reception area staff.
- Have your calls screened, transfer harassing calls to security, or remove your name and number from the automated phone directories.
- Your employer may be able to adjust your hours and/or your time off, move the location of your office or allow you to telecommute.
- Ask about leave options if you need time to seek legal, medical, counseling, or other assistance for you or your child, or need to relocate your home. You are generally entitled to unpaid leave unless you work for a very small employer (less than 6 employees). A booklet with more information about workplace leave for domestic violence, sexual assault and stalking victims can be found at www.oregonlawhelp.org.
- You can call the Occupational Health and Safety Administration in the U.S. Government section of the telephone book. OSHA requires employers to furnish a safe and healthy workplace, and can take steps to help if your employer is not willing to protect you.
- Ask whether your employer has an Employee Assistance Program (EAP). Many employers do.
- The EAP can provide free advice, counseling, and referrals which are not supposed to be shared with your employer.
- If possible and if the safety risk is too high, consider quitting your job.

What if I quit my job because of domestic violence?

- If you are the victim or the parent of a victim of domestic violence, sexual assault or stalking, and you leave your job or refuse to apply for or accept a job in order to protect yourself or your child from violence that you reasonably believe will occur, and you have pursued reasonable available alternatives before leaving your job, you may be eligible for unemployment insurance.

Can I get fired if I tell my employer that I am in danger?

- Generally, an employee can be fired for any reason or no reason at all, unless the reason for firing the employee is illegal or violates public policy. Illegal reasons for firing an employee include firing based on that person's sex, religion, marital status, etc. but does not specifically include status as a domestic abuse victim/survivor. You should talk to an attorney about these issues.
- Oregon law (ORS 659A.230) makes it illegal for an employer to fire an employee because the employee has caused a criminal complaint to be filed or has reported a crime or has pursued or testified in a civil proceeding, such as one for obtaining a restraining order.
- You should consult with an attorney if you are worried that you will be fired, demoted, etc. because you are a victim of abuse. It is best to contact an attorney before you quit or if you think you are going to be disciplined or fired for taking action to protect yourself.

10. HOUSING

If I leave my abuser who gets the house/apartment?

- If you are married and own or rent a home/apartment/etc. together, even if the home is in the abuser's name and not yours, you may be able to get a court order giving you use of the home and keeping your spouse from going to the home.
- If you are not married and both of your names are on the deed or rental agreement, you may be able to get a court order giving you use of the home.
- If there are minor children living in the home and both your names are on the deed or rental agreement, the judge will determine what is in the best interest of the children and award the use of the house based on that determination.

Can I be evicted from my apartment or rented house?

- Under Oregon law, your landlord cannot evict you or refuse to renew your lease if you are a victim of domestic violence.
- If your abuser violates the rental agreement by his or her abuse, your landlord may not evict you. However, you may be evicted if your landlord has previously given you a written warning about the abuser's conduct and: (1) you allow the abuser to stay at your home without the landlord's permission or (2) you allow the abuser to be on the property and the abuser is an actual and imminent threat to the safety of others on the property.
- The landlord may evict the abuser (but not you) if s/he commits an act of violence against you. The landlord must give 24 hours notice and may not require you and any other tenants to pay additional money as a result of the abuser's eviction.

Can I change the locks on my apartment or rented house to keep the abuser out?

- If you notify your landlord that you (or a child living with you) have been abused and want your locks changed, your landlord must change your locks or give you permission to have the locks changed. You do not need to provide proof of the abuse. However, if the abuser is on the lease with you, you must have a court order that orders the abuser to move out of the home (including a restraining order – see Section 6 for more information). If you have a final court order that removes the abuser from your home, the abuser's lease is terminated once you give the order to your landlord.
- If your landlord refuses to change the locks or does not change them quickly, you can change the locks without his or her permission. However, you must provide a key to the new locks to your landlord.
- You are responsible for the cost of having your locks changed.

What if I need to move to escape my abuser?

- If you (or a child living with you) have been abused within the last 90 days or if you have a valid restraining or stalking order, you may be released from your lease early to allow you to move.
- In order to be released from your lease early, you must provide written notice to your landlord and give your landlord a copy of one of the following: a valid protection order, including a restraining order, a police report showing that you or a child living with you was the victim of domestic violence, sexual assault or stalking, or a statement from a law enforcement officer or other qualified third party (including an attorney, licensed health professional or victim advocate) stating that you have reported an incident of domestic violence, sexual assault or stalking.
- You will not be charged for ending your lease early.

How can I find new housing?

- The State of Oregon may provide you with emergency money for a rental deposit or first month's rent. See the Money: Emergency and Compensation section of this guide.

11. IMMIGRATION

The immigration laws in the United States are complex and can be confusing. It is important that you consult with an immigration attorney or obtain assistance from an immigration legal services organization if you have an immigration problem.

How can I obtain legal immigration status in the United States?

- Under U.S. immigration law, an alien (someone who is not a citizen) usually cannot petition for immigration status on his or her own, but must rely on a family member or employer to do so.
- If you have close relatives who are U.S. citizens (USCs) or legal permanent residents (LPRs), they may petition for you, or in some cases your employer may be able to petition for you.
- Spouses, children, and parents of USCs who have been abused by the USC or spouses and children of LPRs who have been abused by the LPR, may ask for immigration status on their own.

What can I do if my abusive spouse, parent, or child is a U.S. citizen (USC) or a Lawful Permanent Resident (LPR)?

- If you are married to a USC or LPR who is abusive towards you or your children, or you are the child or step-child of an abusive USC or LPR or the parent of an abusive USC, you are eligible to self-petition for immigration status.
- You are also eligible to self-petition if you were divorced from an abusive USC or LPR spouse less than two years ago.

What do I need to show in order to self-petition?

- Your abuser's status as a USC or LPR.
- Legal marriage or parent-child relationship.
- That your marriage was in good faith, i.e. you did not marry solely to obtain immigration benefits (not required for self-petitioning children).
- Past or present evidence of residence with the abuser.
- Battering or extreme cruelty by the USC or LPR.
 - There is no requirement of physical abuse; extreme cruelty, whether physical, emotional, sexual, or financial, may support a self-petition.
- Current residence in the United States or some of the abuse happened in the United States
- Good moral character (essentially this requires that you have not committed certain criminal acts).

How do I show that I was subject to abuse?

- You may show that you were subject to battering or extreme cruelty at the hands of a USC or LPR spouse, parent, or child by any credible evidence.
- One way you can show the abuse is through your declaration, in which you tell the story of your relationship with your abuser. Other ways may be through police, medical or shelter records, letters from witnesses or proof of restraining orders.

What happens once my self-petition is approved?

- Once your self-petition has been approved you have legal status in the United States, and are eligible for employment authorization.
- You may also be eligible to adjust your status to legal permanent residence in the future.

What if I am already in immigration court proceedings?

- If you are already in proceedings you may be eligible for cancellation of removal, allowing you to adjust your status to a legal permanent resident under the Violence Against Women Act (VAWA).

What do I need to show to be eligible for VAWA "cancellation of removal," or right to remain in the U.S.?

- Continuous presence in the United States for three years preceding the filing of your application.
- Your abuser is or was a USC or LPR.
- Your abuser is or was your spouse or parent.
- Battering or extreme cruelty by the USC or LPR.
- Good moral character.
- Extreme hardship to yourself, to your child, or to your parent, if you are removed to your country of origin.
- That you are not inadmissible or deportable under certain grounds, or that you are eligible for a waiver.

What if I have conditional permanent residence based on my marriage to a USC or my parent's marriage to a USC?

- If you have conditional permanent residence and your spouse or parent is abusive towards you, or you have divorced, you may ask CIS to remove the condition on your and your children's residence without your spouse's assistance by filing a petition for the removal of the joint filing requirement.

What can I do if I was subject to domestic violence by a person I am not married to, or by a non-immigrant or undocumented spouse?

- If you are a victim of domestic violence or certain other violent crimes and you have cooperated with the authorities investigating or prosecuting that crime, you may be eligible for a U visa.
- The U visa gives you legal status, and work authorization
- You may also be eligible to adjust your status to legal permanent residence in the future.

What can I do if I am a victim of forced labor?

- If you are a victim of violence and the violence is related to the crime of trafficking for the purpose of forced labor, including sexual servitude, then you may be eligible for a T visa.
- The T visa requires that you be present in the United States, and that you comply with any reasonable request of the authorities for assistance in the investigation or prosecution of the crime (unless you are less than 18 years old).
- You must also show that you would suffer extreme hardship if removed to your country of origin.
- If you are granted a T visa you will be granted work authorization and may be eligible to adjust your status to legal permanent residence after three years of continuous presence in the United States.

What if I am afraid to return to my country of origin because of domestic violence?

- If you fled to the United States to get away from an abuser, or fear that your abuser will be able to find you and abuse you with impunity in your country of origin, you may be eligible for political asylum or withholding of removal based on past persecution or a well-founded fear of persecution.
- In recent years advocates have argued that domestic violence is persecution based on the political opinion of the victim, or the victim's membership in a particular social group such as the immediate family or women of a certain nationality or tribe.
- Political asylum based on domestic violence is an emerging area of asylum law. It is very important that you obtain the assistance of an attorney with experience in asylum law if you seek political asylum based on domestic violence.
- As a last resort, you may be granted withholding of removal, under regulations implementing the convention against torture, which prevent your removal to a country where extreme domestic violence is tolerated by the authorities, and you are likely to be subject to domestic violence so severe that it amounts to torture.

Which organizations can help me with my immigration case or refer me to a private attorney?

- Catholic Charities Immigration Legal Services, 901 SE Oak St. #105, Portland, Oregon 97214, 503-542-2855.
- Immigration Counseling Services, 519 SW Park Ave. #610, Portland, Oregon 97205, 503-221-1689.
- Lutheran Family Services, 605 SE 39th Ave, Portland, Oregon 97214, 503-231-7480.

12. PRIVACY/CONFIDENTIALITY

Maintaining Privacy/Confidentiality can be critical to staying safe in a domestic violence situation.

How do I keep my location hidden from my abuser?

- Depending on the seriousness of your need, you can consider getting a name change, getting an unlisted telephone number, moving to another address, changing jobs, getting a new social security number, etc.
- If you decide on any of the actions listed above, keep copies of all documentation as proof of your former identity.
- Changing your identity is a very complicated decision and you should get the advice of an attorney.

How do I change my Social Security Information?

- The Social Security Administration (SSA) may assign you a new Social Security number (SSN) to make it easier for you to escape your abuser and reduce the risk of further violence.
- Call 800-772-1213 (voice) or 800-325-0778 (TIY) or go directly to a SSA field office. You will need some paperwork so contact them for specifics before you go.
- Continue to keep your records documenting domestic abuse.
- Your old SSN will not be gone and can be disclosed to other government agencies and credit bureaus.
- The Social Security Administration cannot stop outside parties from sharing their information regarding your new and old SSNs.

Is there any reason why I shouldn't change my personal information?

- You may be unable to get a passport or other documentation because you don't have a birth certificate under the new identity.
- The loss of your previous work history may result in your having to accept positions for which you are overqualified or positions in which you have no experience.
- You may face difficulties or delays in receiving federal/state benefits, such as welfare, disability, and SSI.
- You may have difficulty trying to prove past abuse if past medical records and court papers are in a different name.
- Changing your information is not foolproof, and your abuser may still be able to track you down.
- Changing your identity is a very complicated process and you should consult an attorney.

What if I don't want to get phone calls from my abuser?

- Call your phone company and tell them you need an unlisted phone number.
- Get caller ID. This service will tell you where the call is coming from.
- Ask to get your phone number permanently blocked from other people's caller ID. This means that other people with caller ID cannot see your phone number.
- Dial *67 (or 1167 for rotary phones) EACH time you make a call until you get your phone number permanently blocked from caller ID.
- There is a cost for these services and the phone companies are unlikely to waive it.

What if I get a harassing or threatening phone call from my abuser?

- If you get a harassing/threatening phone call, hang up. Pick the phone up again and when you have a dial tone, dial *57 (1157 for rotary phones) to trace the phone number. This information will not be available to you but will be available to law enforcement authorities. Call your local law enforcement agency.
- If you are in present danger from the call, call 911.
- Your abuser may face criminal charges for telephone harassment if there is proof and if you call the police.
- If you are not in present danger, call the local non-emergency police number.
- See your local phone book for additional local police numbers and emergency contact information.

Can my abuser get my driver's license information?

- You can request that your personal information not be distributed to bulk distributors of surveys, marketing materials or solicitations. You should do so in writing.
- You can ask the Department of Motor Vehicles for a confidentiality form to prevent the release of your address, 503-945-5511.

Can my abuser get other public record information about me?

- Public records contain information available to the general public.
- You can request that information about you in public records is not disclosed.
- However, lien and property records will always disclose your name and address.
- You can call Legal Aid for a form and information regarding privacy in public records, 503-224-4086.
- The Oregon Address Confidentiality Program is now available for victims of domestic violence when safety is at risk and they have moved to a place in the state that is unknown to their abusers. You can get a "substitute address" that can be used in place of a residential or contact address and provides a mail forwarding service. In addition, if you use this program you can keep your home address out of public records when registering to vote, applying for marriage or driver's licenses, public assistance and more. For information on whether this program is right for you call 503-373-1323 or 1-888-559-9090 or visit the website: www.doj.state.or.us/crimev/confidentiality.shtml.

Can I keep my information private if I am involved in a court case?

- You can ask that your home address and telephone number be kept confidential if that information would put you or a family member at risk. This can be complicated, and it is best to ask an attorney to help you.
- You can ask the court clerk about confidentiality or talk to the district attorney if it is a criminal case.
- You can get more information by talking to a victim's assistant in your local district attorney's office and at www.doj.state.or.us/crimev/crimevicrights.shtml.

Are there other people I should contact and tell them not to disclose my personal information?

- Utility companies (phone, gas, electric, water, sewer), cable television, the post office, your bank, welfare, social security, creditors, Department of Human Services, family.
- Make certain to have the companies make a note on their records of why you don't want your address, name, and phone number disclosed.
- Request a copy be sent to you to keep in your files.
- See sections on confidentiality of driver's license and public information.

13. SAME SEX VIOLENCE

My abuser is of the same sex. Is this still considered domestic violence and family abuse?

- Yes. Domestic violence and family abuse can affect anyone of any sex or background.
- Domestic violence generally includes physical harm, forcing a partner to have sex against his or her will, emotional abuse, humiliation and verbal threats.

As a person in a same-sex relationship, does Oregon law protect me?

- Yes. Oregon law provides for protection from abuse, no matter what your gender or orientation.

How can I protect myself from abuse?

- First find a safe place. A good start is to call a domestic violence crisis line to help, and some that are specifically designed for gay and lesbian victims and survivors are:
 - Bradley-Angle House, 503-281-2442 (offers telephone referrals to men and women).
 - Survivor Project, 503-288-3191 (support and crisis line for intersex and transgender survivors of abuse).
 - Portland Women's Crisis Line, 888-235-5333 (crisis line for all genders and orientations)
 - Project Dove, 800-889-2000 (Eastern Oregon).

We aren't married or registered domestic partners and no one knows we are a couple. Can I still get a restraining order to keep myself safe?

- Yes, if you otherwise qualify for a restraining order.
- You may be able to get a restraining order if you:
 - Are living with the person who is abusing you;
 - Used to live with the person who is abusing you; or
 - Have shared a sexual relationship with the person who is abusing you within the past two years.
- See Section 6 of this guide for information on restraining orders and stalking orders.

My abusive partner has a child and I'm worried about leaving him/her in the house alone with the abuser. What can I do?

- If you are the child's legal parent, you have all the rights of a parent to protect your child.
- If you are not the child's biological or legal parent, you may have grounds for filing a "third-party" custody case, but you should consult with an attorney before taking the child from the home.
- If this is not your legal child and you believe that the child is at risk of abuse or neglect if you leave, you can call the Oregon Department of Human Services (DHS) 503-731-3100. This agency is devoted to protect and provide for the safety of children throughout Oregon.
- If you or the child is in immediate danger, call 911.

What if my abusive partner threatens to "out" me at work, to my family, and to my friends if I tell anyone of the abuse?

- Under the terms of a restraining order, your abusive partner is prohibited from intimidating, menacing, or interfering with you. This includes doing anything, or threatening to do anything, that you find disturbing, or that causes you to change your habits or daily routines.
- If your abusive partner exposes or threatens to expose your sexual orientation against your will, s/he can be found in violation of the restraining order and may face a court sanction or criminal charges.

Can anyone get the information I give over the phone or to a shelter?

- No. Information maintained by crisis lines and shelters about clients should be kept confidential. However, a crisis line or shelter may be required by a court to provide information in some situations.
- Generally, crisis lines are only required to disclose information regarding child abuse and only such information that is necessary to keep the child safe.
- Any information collected by a state agency in order to provide family violence services is confidential and can only be used to help in providing you with assistance.
- Your abuser may discover that you have been talking to a shelter or crisis line if your phone is tapped or if the abuser dials *69.

My abusive partner's name is on the lease, rental agreement or mortgage. Can s/he be forced to move out?

- It depends. If you are registered domestic partners or your name is also on the lease, rental agreement or mortgage, the court can order that the abuser leave the residence.
- If the abuser is the sole owner of the home, s/he cannot be forced to move unless you are registered domestic partners. You can get a restraining order to keep your abuser away from your new residence and the surrounding area.
- If you must move out, with a restraining order you can request that a police officer or sheriff go with you to your former residence to retrieve your essential personal belongings.

My abuser and I own several things together. How do we divide them?

- When you make a purchase together, you should be sure to include your name on the sale agreement.
- Even if your name is not included on the sale agreement, you may be entitled to a portion of the object or its value. You probably need to consult with a lawyer. A lot may depend on whether you are registered domestic partners, but that will not be the only consideration.
- You should consult with an attorney to determine whether you need to file a legal case, such as a Dissolution of Domestic Partnership.

14. OTHER

What can I do with my pet if I leave my abuser?

- Contact the humane society in your community.
- In the Portland area, call Dove Lewis Emergency Animal Hospital, 503-228-7281.

What about the elderly and persons with disabilities?

- Both the elderly and persons with disabilities are covered by the Elderly Persons and Persons with Disabilities Abuse Prevention Act.
 - Under the Act, extra safeguards, such as laws regulating sweepstakes, protect the elderly and disabled.
 - Health care providers are required to report abuse of the elderly or disabled.
 - To report elder abuse call 1-800-232-3020.
 - Go to www.ojd.state.or.us and www.oregonlawhelp.org or contact your local legal aid office for forms and instructions on how to seek a protection order and other information.

15. USEFUL WEB SITES

WARNING: An abuser can discover your internet activities – go to <http://www.ojd.state.or.us/osca/cpsd/courtimprovement/familylaw/DVWebWarning.htm> to learn how to remove evidence of your internet activities from your computer.

www.co.multnomah.or.us/dcfs/dv

Multnomah County's domestic violence website

www.oregonlawhelp.org

Information on civil legal services, obtaining child support, divorces, restraining orders and stalking orders, and victims' employment and housing rights

<http://dcs.state.or.us>

Oregon Department of Justice, Division of Child Support

www.oregoncrimevictimsrights.org

Information on rights of crime victims, including how to obtain crime victim compensation

www.mwaves.org

Making Waves, information on relationships and dating violence for teens

www.dvirc.org.au/whenlove

When Love Hurts, an online guide to dating violence for teens

www.bradleyangle.org

Home page for Bradley-Angle House, a Portland-area shelter

www.faithtrustinstitute.org

Faith Trust Institute, an interfaith resource on domestic and sexual violence.

www.dvinstitute.org

The Institute on Domestic Violence in the African American Community

<http://www.oregon.gov/DHS/abuse/domestic/index.shtml>

Department of Human Services resources on domestic violence

www.endabuse.org

Family Violence Prevention Fund, including updates, issues, best practices and written materials

www.gmdvp.org

Gay Men's Domestic Violence Project

www.msh-ta.org

Mending the Sacred Hoop, a national resource center on domestic violence in Native American communities

www.dvalianza.org

The National Latino Alliance for the Elimination of Domestic Violence

www.pwcl.org

Portland Women's Crisis Line – includes local resources

www.rainn.org

Rape, Abuse & Incest National Network

www.ojd.state.or.us

Oregon Judicial Department – includes forms and other information on family law