

RESTRAINING ORDER

The purpose of the Act on the Restraining Order is to prevent crimes and to improve the possibilities to interfere with severe harassment. A restraining order means that in order to protect the life, health, freedom or peace of a person, another person may be ordered not to contact him/her. A restraining order may be imposed also when the person protected by the order and the person on whom the restraining order is imposed live in the same household.

Who can apply for a restraining order?

Typical cases in which a restraining order may be used include the harassment of a former spouse or co-habiter by contacting him/her, trying to visit him/her as well as situations in which an adult child attempts to extort money from his/her elderly parent. The restraining order can also be used to protect e.g. the witness of a trial.

The provisions on a restraining order inside a family can also be applied when persons cohabit for other reasons than because they are a couple. A restraining order is possible for example when a parent encounters violence from an adult child living in the same house or household.

However, a restraining order can be applied for by anyone who justifiably feels himself/herself threatened or harassed by another.

Also a prosecuting, police or social service authority may apply for the order if the person threatened is too afraid or unable to do it himself/herself.

How do you apply for a restraining order?

If you are in a situation in which you are under a threat and you feel that a restraining order might help your situation, you will get advice and help from police, social service authorities, the public prosecutor or voluntary organisations.

You apply for a restraining order either from the police or directly from the District Court in writing or orally. When applying for the order, you have to tell the authorities

- what kind of threat or harassment you have or are about to be subjected to
- who the person or persons are that you feel are threatening or harassing you
- your idea as to whether the harassment will continue or whether there is a future threat of a crime
- whether there are witnesses or other proof in the matter

It is important that you record all the events as soon as they happen and gather all the possible evidence as well as the contact information of the witnesses to support your application for a restraining order.

If you have been subjected to violence, see a doctor as soon as possible to have your injuries examined.

A temporary restraining order, which will enter into force immediately, can be issued by a civil servant with the right to arrest a person, - i.e., a senior policeman or a public prosecutor - or by the District Court.

An inside-the-family restraining order is most often first imposed as a temporary order by the police, which enters into force immediately. This is the case for example when the police removes a threatening person from the home and takes him/her into custody and when the threat of a crime is evident also after releasing the person from custody.

The contents of a restraining order

A person on whom a **basic restraining order** has been imposed, may not meet the person protected or otherwise contact or try to contact the person. Nor may he/she follow or observe the person being protected.

An extended restraining order refers to an order forbidding the person also from being in a certain area, in the vicinity of the permanent residence, holiday residence or work place of the person being protected or of another comparable place expressly specified in the court order.

A person placed under an **inside-the-family restraining order** has to leave the common residence and he/she may not return there. Nor may he/she otherwise meet or contact the person protected by the restraining order. It is forbidden to follow and observe the person protected. Also an inside-the-family restraining order may be imposed **extended** to cover presence in a certain other place, e.g. in the vicinity of the common residence.

The restraining order will be imposed only to the extent necessary in each case. The order does not prevent a contact for proper reasons. In spite of the order, a contact is allowed if for example a common child suddenly gets ill.

Situations which can be foreseen have to be taken into account already in the decision on the restraining order. For example meetings relating to the visiting rights of a child or contacts necessary for the distribution of marital assets can be ordered to take place through the social welfare authorities or in the presence of a third party.

An inside-the-family restraining order does not affect the economic obligations of the parties (e.g. the paying of rent), the ownership or rental relations of the residence or movable property in the home. Nor does the order have legal effects relating to the custody of common children, visiting rights or sustenance. Separate arrangements will have to be made regarding visiting rights of the children.

Duration of a restraining order

The restraining order is valid for the period ordered by the District Court, however, for a maximum of one year, but this period may be extended, if necessary. An extension requires a request to that effect to the District Court and the handling of that request.

An inside-the-family restraining order can, however, be imposed for a maximum of three months. Its period of validity will be decided case by case. An inside-the-family restraining order can, where necessary, be extended for a maximum of three months.

Handling of a restraining order in the District Court

In the District Court an application for a restraining order is handled urgently. Like in a criminal case, the matter is handled at a trial, where the account given of the matter is examined and both parties as well as witnesses are heard.

When the District Court issues the order, it always assesses the danger of a crime or harassment case by case. As grounds it uses the circumstances, the person's own experience of a threat as well as the testimony of possible witnesses.

An act of violence that has already taken place can be considered a serious ground, but it is not a prerequisite for an order. Also when a person who feels himself/herself threatened, is harassed for example near his/her home, at his/her work or in public places with the purpose of threatening or nuisance for example by following the person without justification, all this can be sufficient grounds to issuing a restraining order. Also harassment over the phone, by letter or in another way may, when continued, result in the imposition of a restraining order.

Stricter prerequisites of an inside-the-family restraining order

Because an obligation to leave one's home involves stronger interference with the rights of a person than an ordinary restraining order, the prerequisites for imposing an inside-the-family restraining order are stricter than those of an ordinary restraining order.

The order may be imposed only to prevent a crime on the life, health or liberty of a person or to avert a threat thereof, but not if the case involves crime on or harassment of peace. In addition, what is required is that the likelihood of a crime referred to above would be greater if the order is not imposed.

Sometimes it may be difficult to prove a threat. If the other party does not admit the harassment, it would be good in order to prove it if the harassment could also be noticed by an outsider. Earlier contacts with the police or social workers will support your case. Accounts of the threat may include doctor's certificates, written messages or technical recordings as well as testimony by witnesses, for example, by neighbours or co-workers.

Legal assistance at the trial can be obtained from public legal aid counsels, attorneys-at-law and other lawyers. The legal aid office will tell you if you have a possibility to have a counsel at the cost of the State.

The District Court may decide a case relating to a restraining order even if the person against whom the order is applied for refuses to come to court. **The restraining order will enter into force as soon as it has been imposed.**

If the restraining order later on proves to be unnecessary, you can apply to the District Court to have it repealed. **The parties cannot mutually agree on the termination of the order.**

Breach of the restraining order

Breach of a restraining order is a punishable act. **The punishment is a fine or imprisonment not exceeding one year.** Breach of the order is a crime subject to public prosecution, and it will be taken to court by the public prosecutor.

All restraining orders are entered into a special personal data file kept by the police.

The police also supervises these orders and may use force if the order is breached. If for example a person upon whom a restraining order has been imposed continues to harass the person protected, the police called in may take the guilty party to the police station and interrogate him/her for further measures.

THIS IS WHAT TO DO:

- if you have been or are about to be subjected to violence or harassment, contact the police
- you can ask the police to issue a temporary restraining order
- you can also ask the social services for advice or turn to another party giving advice
- use expert assistance, where necessary
- after a restraining order has been issued, think if you can do something to improve your security, like change the locks etc.
- control yourself actively that the restraining order is not violated
- **if the restraining order is violated, inform the police immediately**
- **do not be afraid to act for your own safety and the safety of your family**

Advice and help in restraining order matters

The following authorities will give you advice and instructions in matters relating to restraining orders:

- the nearest police authority
- the nearest social service authority

The following organisations will give you advice and instructions in matters relating to restraining orders:

- the nearest shelter www.turvakoti.net
- Crime Victim Telephone www.rikosuhripaivystys.fi
0203 16 116 Auttava puhelin (Help Telephone) Mon - Tue 1 p.m. – 9 p.m., Wed –Fri 5 p.m. – 9 p.m.
- 0203 16 117 Legal advice Mon - Thurs 5 p.m. – 7 p.m.
- Tukinainen Rape Crisis Centre www.tukinainen.fi

tel. 0800 97899 Free crisis telephone Mon - Thurs 9 a.m. – 5 p.m., Fri –Sun, on holidays and holiday eves 5 p.m. – midnight.

tel. 0800 97895 Free legal service, Mon – Thurs 2 p.m. – 5 p.m.

Naisten Linja (Women's Line) www.naistenlinja.com

The police emergency number 112

The Ministry of Justice

www.om.fi

Ministry of the Interior/Police Department

www.poliisi.fi

01/2005