

# RESTRAINING ORDERS IN WISCONSIN

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[§813.128\(2g\)\(a\)](#) states that a foreign protection order shall be accorded full faith and credit by the tribunals in this state and shall be enforced as if the order were an order of a tribunal of this state. A foreign protection order is a protection order issued by a tribunal [a court, agency, or other entity of a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, an American Indian tribe or band, or any territory or insular possession subject to the jurisdiction of the United States, authorized by law to issue or modify a protection order] other than a tribunal of this state. See [§813.128\(1g\)\(c\)](#), [§813.128\(1g\)\(g\)](#). A protection order is any temporary or permanent injunction or order issued by a tribunal to prevent an individual from engaging in abuse, bodily harm, communication, contact, harassment, physical proximity, threatening acts or violence to another person, other than for support or custody orders. This term includes an injunction or order issued under the anti-stalking laws of the issuing state. [§813.128\(1g\)\(e\)](#). A foreign protection order or modification of the foreign protection order that meets the requirements under this section has the same effect as an order issued under [§§813.12](#), [813.122](#), [813.123](#) or [813.125](#), except that the foreign protection order or modification shall be enforced according to its own terms. [§813.128\(2g\)\(b\)](#). See <http://www.bwjp.org/our-work/projects/protection-orders.html> for more information.

## Contents

QUESTIONS .....	5
<b>I. OVERVIEW .....</b>	<b>5</b>
1. What is the process to obtain a restraining order?.....	5
2. Who may petition? .....	6
3. Against whom may the petitioner bring an action?.....	7
4. What type of abuse must be alleged in the petition to obtain the TRO or injunction?.....	8
5. What must the court find to grant the TRO? .....	9
6. What is the standard to issue the TRO or the injunction? .....	10
7. What can the respondent be ordered to do if a TRO is issued? .....	11
8. What will it cost to file a petition? .....	12
9. Where can the petition be filed (venue)? .....	13
10. Are there other jurisdiction issues a court must consider beyond venue?.....	14
11. Does Wisconsin recognize restraining orders from other countries? .....	15
12. Does Wisconsin recognize restraining orders from tribes? .....	16
13. What is “full faith and credit”? .....	17
<b>II. TEMPORARY RESTRAINING ORDERS (TRO).....</b>	<b>18</b>
14. How does a petitioner file for a TRO and/or injunction? .....	18
15. What information should be included in a petition? .....	19
16. Can a petitioner skip filing a TRO and file for an injunction only?.....	20
17. Must a petitioner tell the court about other no contact orders between the petitioner and the respondent? .....	20
18. Can the victim’s address be kept confidential on the TRO petition? .....	21

19.	Can a petitioner include their children or family members on a TRO petition? .....	21
20.	Is notice required for the court to issue a TRO?.....	21
21.	How long is a TRO in effect? .....	22
22.	When can the court extend a TRO? .....	22
23.	May the court extend a TRO and not rule on the injunction?.....	22
24.	Can the court issue a dual or mutual TRO? .....	22
25.	Who can have contact with the petitioner on behalf of the respondent?.....	23
26.	If the petitioner files a domestic abuse TRO, can the court allow the petitioner to enter a stipulation to convert the petition to a harassment TRO? .....	23
27.	If the court denies the request for a TRO, is an injunction hearing still possible? .....	24
28.	Does the firearm surrender law apply when a TRO is issued? .....	24
29.	Can the court order law enforcement to assist in gaining physical possession of a home after the TRO is granted? .....	25
<b>III.</b>	<b>SERVICE OF TRO/INJUNCTION .....</b>	<b>25</b>
30.	After a TRO is issued, is it necessary to serve the TRO on the respondent? .....	25
31.	Does the law mandate a law enforcement officer to make an arrest for violation of a TRO?.....	26
32.	Is the TRO voided if respondent is admitted into the home or if petitioner contacts respondent? .....	26
33.	Can a TRO be enforced if other no contact orders exist?.....	26
34.	How does the petitioner serve the TRO or injunction on the respondent? .....	27
35.	Is law enforcement in another county/state mandated to provide service? .....	28
36.	What can the petitioner or advocate do if law enforcement in another county/state will not provide service or wishes to charge for service of the restraining order? .....	29
37.	What information must be included in the TRO/Notice of Hearing to the respondent?.....	29
38.	Is it possible to provide notice of a TRO and/or injunction by service of publication?.....	30
39.	What is the process to provide service by publication?.....	31
40.	How does VINE Protection Order (VPO) and Victim Information and Notification Everyday (VINE) apply to the service of the TRO?.....	32
41.	Who can petitioner contact for VPO information?.....	32
<b>IV.</b>	<b>INJUNCTIONS.....</b>	<b>33</b>
42.	Is notice required before the court can issue an injunction?.....	33
43.	What type of conduct must be alleged/shown to allow the court to order an injunction? .....	33
44.	How long can an injunction be granted? .....	34
45.	What must the court find to allow the court to grant an injunction?.....	35
46.	What can the respondent be ordered to do if an injunction is granted?.....	36
47.	Who can have contact with the petitioner on behalf of the respondent?.....	37
48.	Are there any orders a court may not make as part of the injunction? .....	37
49.	Can the court order a dual injunction? .....	37
50.	Can the court order an injunction against the petitioner? .....	37
51.	Does the law allow a service representative to be present at an injunction hearing? .....	38
52.	Can anyone be excluded from an injunction hearing? .....	38
53.	Does WI's Victim Advocate Accompaniment Law apply to TROs and injunctions? .....	39
54.	May the court extend a TRO and not rule on the injunction?.....	39
55.	If the petitioner files a domestic abuse injunction, can the court allow the petitioner to enter a stipulation to convert the petition to a harassment injunction?.....	39
56.	After the injunction is issued, is it necessary to serve the injunction on the respondent?.....	40
57.	Can the injunction be enforced if it hasn't been served?.....	40
58.	Can a court extend an injunction after it is granted? .....	41

59.	Must the court give notice before it extends an injunction? .....	41
60.	When the 4-year injunction expires, can a petitioner file for a new one against the same respondent? .....	42
61.	After an injunction expires, does a new incident of abuse have to occur for the petitioner to apply for a new restraining order against the same respondent? .....	43
62.	What is issue preclusion (collateral estoppel)? .....	44
63.	What is claim preclusion (res judicata)? .....	45
64.	Will a new TRO/ injunction be issue precluded or claim precluded if there are no new incidents of abuse? .....	46
65.	Does the law mandate a law enforcement officer to make an arrest for violation of an injunction? .....	46
<b>V.</b>	<b>FIREARMS AND SURRENDER .....</b>	<b>47</b>
66.	Is there an automatic firearm surrender law against the respondent? .....	47
67.	Does the firearm surrender law apply when a TRO is issued? .....	48
68.	Are there any exceptions to who must surrender firearms? .....	48
69.	Can anyone else possess a firearm after the court has ordered firearm surrender? .....	49
70.	What is the procedure for surrendering firearms when ordered by the injunction if the respondent is present at the injunction hearing? .....	50
71.	What is the procedure for surrendering firearms when ordered by the injunction if the respondent is NOT present at the injunction hearing? .....	50
72.	What happens if the respondent does not attend the hearing to surrender firearms? .....	51
73.	What happens at the hearing to surrender firearms? .....	51
74.	Will the court ever dismiss the hearing to surrender firearms? .....	52
75.	What happens if the respondent does not provide a receipt of their firearm surrender within 48 hours of the firearm hearing? .....	52
76.	Are there any third parties who may not possess a firearm? .....	53
<b>VI.</b>	<b>POLICIES AND PROCEDURES .....</b>	<b>53</b>
77.	What is the process for the return of firearms? .....	53
78.	Are there any state laws prohibiting the return of firearms? .....	53
79.	Are there any federal laws prohibiting the return of firearms? .....	54
80.	Can a respondent ask the court to set up a specific date and time to return home to gather personal items? .....	54
81.	Does the law mandate a law enforcement officer to make an arrest for violation of an injunction? .....	54
82.	Is the injunction violated if the respondent is admitted into petitioner's home or if the petitioner initiates contact with respondent? .....	55
83.	Can an injunction be enforced if other civil or criminal no contact orders exist? .....	55
84.	Who may issue a TRO? .....	55
85.	Who may issue an injunction? .....	55
86.	Can a party request substitution of a judge? .....	56
87.	If a party requests substitution of a judge, does the original order remain in effect? .....	56
88.	When can a party seek a review of a restraining order decision made by a circuit court commissioner? .....	56
89.	If a party seeks a de novo review, does the original decision remain in effect? .....	57
90.	What is the process to seek a review of a decision by a circuit court commissioner? .....	57
91.	What happens if a conviction that formed the basis for a permanent injunction (sexual assault) is vacated? .....	57
92.	How can a party seek a review/appeal of a circuit court judge's decision? .....	58
93.	What is the process to seek a review/appeal of a circuit court judge's decision? .....	59
94.	Does the law say anything about a guardian ad litem (GAL)? .....	59
95.	If court appoints a guardian ad litem (GAL), who pays GAL fees? .....	60
96.	Must the court or clerk of circuit court provide the petitioner any help? .....	61
97.	Are there other laws which might assist a petitioner? .....	61
98.	How does a petitioner modify a TRO or injunction? .....	62

99. How does a petitioner drop a TRO or injunction?.....63

100. If a court denies a TRO or injunction, for how long will the denied or dismissed TRO/Injunction be available on WCCA (CCAP)? .....63

**VII. GLOSSARY OF TERMS .....64**

## QUESTIONS

### I. OVERVIEW

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>1. What is the process to obtain a restraining order?</p> <p><i>Filing a restraining order is usually a two-step process.</i></p>	<p><b>Step one: Complete Petition for Temporary Restraining Order (TRO) and file.</b></p> <p>Filing a TRO is an ex parte proceeding. This means the court makes its decision based only on information from one party (the petitioner). Thus, the respondent does not need notice of the filing of the TRO petition. Once complete, take the TRO to the courthouse to file.</p> <p>The petitioner may also efile. More information can be found here: <a href="https://www.wicourts.gov/services/public/selfhelp/restord.htm">https://www.wicourts.gov/services/public/selfhelp/restord.htm</a></p> <p><b>After filing the petition, a judicial officer will review the petition/make a decision.</b> The timeline of when the judicial official makes a decision on the TRO, whether a court commissioner or judge decides the TRO, and whether the court official will speak with the petitioner vary depending on county practice.</p> <p>The clerk will then return the signed or denied TRO to the petitioner.</p> <p>If the TRO is granted, the clerk must forward to the sheriff any TRO, injunction, or other document or notice that must be served on the respondent and the sheriff shall assist the petitioner in executing or serving any TRO, injunction, or other document or notice on the respondent. <a href="#">See §§813.115, 813.12(6)(ag)1, 813.122(9)(a)1, 813.123(8)(a)1, 813.125(5g)(cm)1.</a></p> <p>If the TRO is denied, and the petitioner requests an injunction hearing on the TRO petition, the petitioner must provide the respondent with notice of the injunction hearing. This means there is no TRO prior to the hearing.</p> <p>Note: For harassment restraining orders, if the TRO is denied, the petitioner is only entitled to an injunction hearing if the petition alleges conduct that is the same as or similar to conduct that is prohibited under <a href="#">§940.32</a> (stalking) or is the intentional infliction of physical pain, physical injury or illness; or is an intentional impairment of physical condition; or is a violation of <a href="#">§940.225(1) (2) or (3)</a> (sexual assault); or is a violation of <a href="#">§943.01</a> involving destruction of property that belongs to the individual; or is a threat to engage in above mentioned behavior. See <a href="#">§813.125(2m)</a></p> <p><b>Step Two: Attend Injunction Hearing</b></p> <p><b>The injunction hearing must happen within 14 days of issuance of the TRO unless there is a one-time 14-day extension upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence.</b> * If the extension is granted, the petitioner should provide proof of service to the court prior to the new date of the injunction hearing.</p> <p><b>There is no injunction hearing unless the petitioner provides notice of the hearing to the respondent.</b> If the respondent cannot be located, the petitioner can attend the injunction hearing to ask for an extension of the TRO to allow service by publication for either a domestic abuse or harassment restraining order. *Time can also be extended by written consent of the parties or due to a request for substitution of judge.</p> <p><b>Injunction hearing procedures vary. Basic process:</b></p> <ol style="list-style-type: none"> <li>1. Court asks who is present.</li> <li>2. Petitioner testifies.</li> <li>3. Respondent can conduct cross-examination of the petitioner (ask questions of the petitioner).</li> <li>4. Witnesses for petitioner testify; respondent can cross-examine.</li> <li>5. Respondent testifies.</li> <li>6. Petitioner can cross-examine respondent.</li> <li>7. Witnesses for respondent testify; petitioner can cross-examine.</li> <li>8. Testimony is sometimes limited to only what was stated in the petition.</li> <li>9. Cross examination is to be limited to ONLY what was said by the party.</li> </ol> <p style="text-align: right;">See <a href="#">§813.12</a>, <a href="#">§813.122</a>, <a href="#">§813.123</a>, or <a href="#">§813.125</a>.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
2. Who may petition?	<ol style="list-style-type: none"> <li>1. Adult family member</li> <li>2. Adult household member</li> <li>3. Adult former spouse</li> <li>4. Adult against an adult with whom the petitioner has a child in common</li> <li>5. Adult against an adult with whom the petitioner has or had a dating relationship</li> <li>6. Adult under the caregiver's supervision against the adult caregiver</li> <li>7. Adult guardian of an incompetent individual.</li> </ol> <p><a href="#">§813.12(1)(am)</a>; <a href="#">§813.12(5)(d)</a>.</p> <p><b>Note:</b> The petitioner must be the victim with the exception of a guardian for an individual adjudicated incompetent <a href="#">§813.12(5)(d)</a>.</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, <b>an adult</b> is a person 18 years of age or older. <a href="#">§48.02(1d)</a>.</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, <b>a child</b> is a person who is less than 18 years of age. <a href="#">§48.02(2)</a>.</p>	<ol style="list-style-type: none"> <li>1. Child victim</li> <li>2. Parent of child victim</li> <li>3. Stepparent of child victim</li> <li>4. Guardian of child victim. <a href="#">§813.122(2)(a)</a> for 1-4.</li> <li>5. Guardian ad litem in a matter involving a child found to be in need of protection or services. <a href="#">§48.235(4)(a)6</a>.</li> <li>6. If a proceeding is brought under §48.13 (child alleged to be in need of protection or services), any party to or any governmental or social agency involved in the proceeding. <a href="#">§48.25(6)</a>.</li> </ol> <p>Note: There are two forms for possible use when filing a child abuse TRO petition.</p> <p>Form JC-1690 is used when jurisdiction is with the juvenile court because the child victim is involved in a CHIPS (Children in Need of Protection or Services) action or the respondent is a child. Otherwise, the petition form is CV-412.</p> <p><a href="#">§48.13(3)</a>; <a href="#">§48.13(11)</a>; <a href="#">§48.14(10)</a></p>	<ol style="list-style-type: none"> <li>1. Individual at risk</li> <li>2. Any person acting on behalf of an individual at risk</li> <li>3. An elder-adult-at-risk agency on behalf of an individual at risk</li> <li>4. Adult-at-risk agency on behalf of an individual at risk</li> </ol> <p>Note: If the petition is filed by a person other than the individual at risk, the petitioner shall serve a copy of the petition on the individual at risk. <a href="#">§813.123(2)(a)</a>.</p> <p>Note: If anyone other than the individual at risk petitions for the restraining order, the court must appoint a guardian ad litem. The court may order that a guardian ad litem be appointed in other instances when justice so requires. <a href="#">§813.123(3)(b)</a>.</p>	<ol style="list-style-type: none"> <li>1. Any person who has been harassed.</li> <li>2. Child, or on behalf of a child, any of the following: <ol style="list-style-type: none"> <li>a. Parent of child</li> <li>b. Stepparent of the child</li> <li>c. Legal guardian of the child</li> </ol> </li> <li>3. Guardian ad litem in a matter involving a child found to be in need of protective services. <a href="#">§813.125(2)(b)</a> for 1-5 (above.)</li> <li>4. Guardian ad litem in a matter involving a child found to be in need of protection or services. <a href="#">§48.235(4)(a)6</a>.</li> <li>5. If a proceeding is brought under §48.13 (child alleged to be in need of protection or services), any party or any governmental or social agency involved in the proceeding. <a href="#">§48.25(6)</a>. Note: There are two forms for possible use when filing a harassment TRO/injunction petition. Form JC-1693 is used when jurisdiction is with the juvenile court because the child victim is involved in a CHIPS (Children in Need of Protection or Services) action or the respondent is a child. Otherwise, the petition is form CV-405.</li> </ol>

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3. Against whom may the petitioner bring an action?	<ol style="list-style-type: none"> <li>Adult family member</li> <li>Adult household member</li> <li>Adult former spouse</li> <li>Adult with whom the petitioner has a child in common</li> <li>Adult with whom the petitioner has or had a dating relationship</li> <li>Adult caregiver <a href="#">§813.12(1)(am)</a></li> </ol> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, an adult is a person 18 years of age or older. <a href="#">§48.02(1d)</a>.</p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, a child is a person who is less than 18 years of age. <a href="#">§48.02(2)</a>.</p>	<ol style="list-style-type: none"> <li>Although <a href="#">§813.122</a> only uses the term respondent, a respondent can be an adult <b>or a child</b> who engages in child abuse. <a href="#">§48.14(10)</a> <a href="#">§757.69(1)(g)7.</a></li> <li>Claim of emotional damage can be brought against parent, guardian or legal custodian who has neglected, refused or been unable for reasons other than poverty to obtain necessary treatment or take steps to ameliorate the symptoms. <a href="#">§48.02(1)(gm)</a>.</li> </ol> <p><b>Note:</b> If the respondent is a child, the court assigned to exercise jurisdiction under Chapter 48 (Children's Code) has exclusive jurisdiction &amp; will hear the TRO/injunction. <a href="#">§48.14(10)</a></p> <p><b>Note:</b> If the respondent is a child (or when the child victim is involved in a CHIPS [Children in Need of Protective Services] petition), the petitioner should use <a href="#">Form JC-1690</a> rather than <a href="#">Form CV-412</a>. This means the hearing will be in juvenile court. <a href="#">§48.13</a></p>	<ol style="list-style-type: none"> <li>Person who has interfered with, or based on prior conduct of the person may interfere with, an investigation of the individual at risk, the delivery of protective services to the individual at risk under <a href="#">§55.05</a>, the delivery of protective placement under <a href="#">§55.06</a> or the delivery of services to an elder adult at risk under <a href="#">§46.90(5m)</a>; <i>and</i> the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent and unreasonable confinement or restraint, financial exploitation, neglect or self-neglect has occurred, is occurring, or may recur.</li> <li>Person engaged in or threatened to engage in the abuse, financial exploitation, neglect, harassment or stalking of an individual at risk or the mistreatment of an animal. <a href="#">§813.123(4)(a)2.a.</a> <a href="#">§813.123(4)(a)2.b.</a></li> </ol> <p><b>Note:</b> The respondent must be an adult. <a href="#">§813.123(6)(b)</a>.</p>	<ol style="list-style-type: none"> <li><a href="#">§48.13(3)</a>; <a href="#">§48.13(11)</a>; <a href="#">§48.14(10)</a></li> <li>Adult who engages in harassment.</li> <li>Child who engages in harassment.</li> </ol> <p>Although <a href="#">§813.125</a> only uses the term respondent, a respondent can be an adult or a child who engages in harassment. <a href="#">§757.69(1)(g)7.</a> <a href="#">§813.125(5)(a)2.</a></p> <p><b>Note:</b> If the respondent is a child, the court assigned to exercise jurisdiction under Chapter 48 (Children's Code) has exclusive jurisdiction &amp; will hear the TRO/injunction. <a href="#">§48.14(10)</a>.</p> <p><b>Note:</b> If the respondent is a child (or when the child victim is involved in a CHIPS [Children in Need of Protection or Services] petition), the petitioner should use <a href="#">Form JC-1693</a> rather than <a href="#">Form CV-405</a>.</p> <p>This means the hearing will be in juvenile court. <a href="#">§48.13</a></p>

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4. What type of abuse must be alleged in the petition to obtain the TRO or injunction?	<ol style="list-style-type: none"> <li>1. Intentional infliction of physical pain, physical injury or illness; <i>or</i></li> <li>2. Intentional impairment of physical condition; <i>or</i></li> <li>3. Violation of 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree sexual assault under §§940.225(1), (2) or (3); <i>or</i></li> <li>4. Stalking under §940.32; <i>or</i></li> <li>5. Intentional damage to physical property belonging to the individual (petitioner) under §943.01; <i>or</i></li> <li>6. Threat to engage in conduct under 1, 2, 3,4 and/or 5. <a href="#">§813.12(1)(am) to 6.</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Physical injury inflicted on child by other than accidental means; <i>or</i></li> <li>2. Sexual intercourse or sexual contact under §940.225 (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault), §948.02 (1st or 2<sup>nd</sup> degree sexual assault of child), <i>or</i> §948.025 (repeated acts of sexual assault) §948.085 (sexual assault of child placed in substitute care) <i>or</i></li> <li>3. Sexual exploitation of child; <i>or</i></li> <li>4. Trafficking of a child; <i>or</i></li> <li>5. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i></li> <li>6. Causing a child to view or listen to sexual activity; <i>or</i></li> <li>7. Causing child to expose or exposing genitals or pubic area to child; <i>or</i></li> <li>8. Manufacturing methamphetamines with child physically present during manufacture, in or on premises of child's home or in motor vehicle located on premises of child's home, or under any circumstances in which a reasonable person should have known that manufacture would be seen, smelled or heard by child; <i>or</i></li> <li>9. Emotional damage; <i>or</i></li> <li>10. Threat to engage in conduct above. <a href="#">§§813.122(1)(a), 48.02(1)(a), (b) to (gm).</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Interference, or the potential for interference based on prior conduct of person, with an investigation of individual at risk, delivery of protective services to the individual at risk under §55.05, the delivery of protective placement under §55.06, or the delivery of services to an elder adult at risk under §46.90(5m); The interference complained of, if continued, would make it difficult to determine whether abuse, financial exploitation, neglect, or self-neglect has occurred, is occurring or may recur.</li> <li>2. The respondent engaged in or threatened to engage in abuse, financial exploitation, neglect, harassment or stalking of an individual at risk or the mistreatment of an animal. <a href="#">§813.123(4)(a)2</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Striking, shoving, kicking, or subjecting another to physical contact ;</li> <li>2. Child Abuse under <a href="#">§48.02(1).</a></li> <li>3. Sexual assault under §940.225 (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> degree sexual assault)</li> <li>4. Stalking under <a href="#">§940.32</a> (Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury).</li> <li>5. <b>NOTE:</b> Or attempting or threatening to do the same for all the above.</li> <li>6. Engaging in a course of conduct or repeatedly committing acts that harass or intimidate another person and that serve no legitimate purpose. <a href="#">§813.125(1)(am)4.</a></li> </ol> <p>A legitimate purpose is one that is protected or permitted by law, a determination that must be left to the fact finder, taking into account all the facts and circumstances. <a href="#">Welytok v. Ziolkowski, 312 Wis.2d 435, 455</a> citing <a href="#">Bachowski v. Salamone, 139 Wis.2d 397, 408 (1987).</a></p> <p><b>Note:</b> Injunctions must be specific as to the prohibited acts and conduct in order for the person being enjoined to know what conduct must be avoided. <a href="#">Bachowski, 139 Wis.2d. at 414.</a></p>

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5. What must the court find to grant the TRO?	<p>1. The petition alleges necessary facts as set out in <a href="#">§813.12(5)(a)</a>; and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. <a href="#">§813.12(3)(a)</a>; and</p> <p>3. Petitioner is in imminent danger of harm. <a href="#">Blazel v. Bradley, 698 F. Supp. 756 (W.D. Wis. 1988)</a>.</p> <p><b>Note:</b> A TRO may not be dismissed or denied because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. <a href="#">§813.12(3)(aj)</a>.</p>	<p>1. The petition alleges the necessary facts set forth in <a href="#">§813.122(6)(a)</a>; and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the child victim and the respondent may engage in, abuse of the child victim. <a href="#">§813.122(4)(a)</a>.</p>	<p>1. The petition alleges necessary facts set forth in <a href="#">§813.123(6)</a> and there are</p> <p>2. Reasonable grounds to believe that the respondent has interfered with, or based on prior conduct of the respondent may interfere with, an investigation of the individual at risk, the delivery of protective services under <a href="#">§55.05</a> or a protective placement under <a href="#">§55.06</a>, or delivery of services to an elder adult at risk under <a href="#">§46.90(5m)</a> and that the interference complained of, if continued, would make it difficult to determine whether abuse, financial exploitation, neglect or self-neglect has occurred, is occurring or may recur or</p> <p>3. Respondent engaged or threatened to engage in abuse, financial exploitation, neglect, harassment or stalking of an IAR or mistreatment of an animal. <a href="#">§§813.123(4)(a)1 and 2</a></p>	<p>1. The petition alleges the sufficient facts as set forth in <a href="#">§813.125(5)(a)</a>; and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner. <a href="#">§813.125(3)(a)</a></p> <p><b>Note:</b> A TRO may not be dismissed or denied because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. <a href="#">§813.125(3)(e)</a>.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
6. What is the standard to issue the TRO or the injunction?	<p>Court finds there are <b>reasonable grounds</b> to believe the respondent has</p> <ol style="list-style-type: none"> <li>Engaged in domestic abuse of the petitioner <i>or</i>,</li> <li>Based on prior conduct of the petitioner and the respondent, <b>may engage in domestic abuse</b> of the petitioner. <a href="#">§813.12(3)(a)2.</a> <a href="#">§813.12(4)(a)3.</a></li> </ol>	<p>Court finds <b>reasonable grounds</b> to believe the respondent has</p> <ol style="list-style-type: none"> <li>Engaged in <i>or</i>,</li> <li>Based upon prior conduct of the child victim and respondent, may engage in abuse of the child victim. <a href="#">§813.122(4)(a)2.</a> <a href="#">§813.122(5)(a)3.</a></li> </ol>	<p>Court finds <b>reasonable grounds</b> to believe the respondent has</p> <ol style="list-style-type: none"> <li>Interfered <i>or</i>,</li> <li>Based on prior conduct, may interfere with investigation of elder adult at risk <a href="#">§46.90</a> or adult at risk <a href="#">§55.043</a>; <i>or</i></li> <li>Respondent has interfered with the delivery of protective services or protective placement after offer of protective services/placement had been made to IAR or elder adult at risk; <i>or</i></li> <li>Respondent has engaged in or threatened to engage against IAR in abuse, financial exploitation; neglect; harassment; stalking; or mistreatment of an animal connected to IAR <a href="#">§813.123(4)(a).</a> <a href="#">§813.123(5)(a)</a></li> </ol>	<p>Court finds <b>reasonable grounds</b> to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner. <a href="#">§813.125(3)(a)2.</a> <a href="#">§813.125(4)(a)3.</a></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
7. What can the respondent be ordered to do if a TRO is issued?	<ol style="list-style-type: none"> <li>1. Refrain from committing acts of domestic abuse against the petitioner.</li> <li>2. Avoid the petitioner's residence or any other location temporarily occupied by the petitioner or both.</li> <li>3. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents in writing.</li> <li>4. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>5. Allow petitioner or family member or household member of petitioner to retrieve household pet.</li> <li>6. Any combination of these remedies.</li> <li>7. Any other appropriate remedy not inconsistent with the remedies requested in the petition. <a href="#">§813.12(3)(a)</a>.</li> </ol> <p>If the petitioner &amp; respondent are not married, the respondent owns the premises where the petitioner resides &amp; the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates &amp; shall order the respondent to avoid the new residence for the duration of the order. <a href="#">(§813.12(3)(am))</a></p> <p>The court may only grant the remedies requested or approved by the petitioner. <a href="#">§813.12(3)(aj)</a>.</p>	<ol style="list-style-type: none"> <li>1. Avoid the child victim's residence or any residence temporarily occupied by the child victim or both.</li> <li>2. Avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the court agrees that the contact is in the child victim's best interest.</li> <li>3. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>4. Allow petitioner or family member or household member of petitioner to retrieve household pet. <a href="#">§813.122(4)(a)</a>.</li> </ol> <p><b>Note:</b> Contact means knowingly touching, meeting, communicating, or being in audio or visual contact. <a href="#">§813.122(7)</a>.</p>	<p>Unless the individual at risk, guardian or guardian ad litem consents in writing and court agrees that contact is in best interest of individual at risk, respondent can be ordered to do one or more of the following:</p> <ol style="list-style-type: none"> <li>1. Avoid interference with an investigation of elder adult at risk under <a href="#">§46.90</a> or adult at risk under <a href="#">§55.043</a>, delivery of protective services to individual at risk under <a href="#">§55.05</a> or protective placement of individual at risk under <a href="#">§55.06</a>, or delivery of services to elder adult at risk under <a href="#">§46.90(5m)</a>.</li> <li>2. Cease engaging in or threatening to engage the abuse, financial exploitation, neglect, harassment, or stalking of individual at risk or mistreatment of an animal.</li> <li>3. Avoid residence of individual at risk or any other location temporarily occupied by individual at risk, or both.</li> <li>4. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact individual at risk.</li> <li>5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>6. Allow IAR, guardian, GAL, family member, or household member of IAR to retrieve household pet.</li> <li>7. Engage in any other appropriate remedy not inconsistent with remedies requested in petition. <a href="#">§813.123(4)(ar)</a>.</li> </ol>	<ol style="list-style-type: none"> <li>1. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact petitioner without petitioner's written consent.</li> <li>2. Cease the harassment of another person.</li> <li>3. Avoid the harassment of another person.</li> <li>4. Avoid the petitioner's residence or any premises temporarily occupied by the petitioner or both.</li> <li>5. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>6. Allow petitioner or family member or household member of petitioner to retrieve household pet.</li> <li>7. Any combination of these remedies. <a href="#">§813.125(3)(a)</a>.</li> </ol> <p>If the petitioner &amp; respondent are not married, the respondent owns the premises where the petitioner resides &amp; petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates &amp; shall order the respondent to avoid the new residence for the duration of the order. <a href="#">§813.125(3)(am)</a>.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>8. What will it cost to file a petition?</b></p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. <a href="#">§814.61(1)(d)</a> and <a href="#">§814.70</a>.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. <a href="#">§814.61(1)(d)</a>, <a href="#">§814.70</a>.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders “to protect a victim of domestic violence, dating violence, stalking, or sexual assault” on respondents without payment of filing fees, or costs associated with the filing, by the victim. See <a href="#">42 USC 10461(c)(1)(D)</a></p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. <a href="#">§814.61(1)(d)</a> and <a href="#">§814.70</a>.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. <a href="#">§814.61(1)(d)</a>, <a href="#">§814.70</a>.</p> <p>If a proceeding is brought under <a href="#">§48.13</a> [CHIPS action- Children in Need of Protection or Services], any party to or any governmental or social agency involved in the CHIPS proceeding may petition the court for a TRO or injunction &amp; no fee is required for the filing of the petition. <a href="#">§48.25(6)</a>.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders “to protect a victim of domestic violence, dating violence, stalking, or sexual assault” on respondents without payment of filing fees, or costs associated with the filing, by the victim. See <a href="#">42 USC 10461(c)(1)(D)</a></p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. <a href="#">§814.61(1)(d)</a> and <a href="#">§814.70</a>.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. <a href="#">§814.61(1)(d)</a>, <a href="#">§814.70</a>.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders “to protect a victim of domestic violence, dating violence, stalking, or sexual assault” on respondents without payment of filing fees, or costs associated with the filing, by the victim. See <a href="#">42 USC 10461(c)(1)(D)</a></p>	<p>If a proceeding is brought under <a href="#">§813.125</a> and does not allege domestic abuse behavior as listed in <a href="#">§813.12(1)(am)(1)-(6)</a> or stalking behavior in <a href="#">§940.32</a>, filing fee is collected under <a href="#">§814.61</a>; justice information fee under <a href="#">§814.86(1)</a>; and court support services fee is in <a href="#">§814.85(1)(a)</a>. Minimum fee per attempt under <a href="#">§814.70</a>. Counties may charge higher fee under <a href="#">§814.705</a>. Fee for travel depends on size of the county. <a href="#">§814.70(3)</a>.</p> <p>Fees for cost of filing a petition or service of petition shall be collected from the respondent upon conviction of violation of order. <a href="#">§814.61(1)(e)</a>. No fee may be collected to file petition, to serve petition, or for cost of travel to serve petition when petition alleges conduct that is same or similar to <a href="#">§940.32</a> or behavior listed in <a href="#">§813.12(1)(am)(1)-(6)</a>.</p> <p>States which receive VAWA funds [WI receives VAWA funds] are subject to a provision which states that law enforcement agencies are to serve protection orders “to protect a victim of domestic violence, dating violence, stalking, or sexual assault” on respondents without payment of filing fees, or costs associated with the filing, by the victim. See <a href="#">42 USC 10461(c)(1)(D)</a></p> <p>If a proceeding is brought under <a href="#">§48.13</a> [CHIPS action – Children in Need of Protection or Services], any party to or any governmental or social agency involved in CHIPS proceeding may petition court for TRO or injunction &amp; no fee is required for filing of petition. <a href="#">§48.25(6)</a>.</p> <p>A petitioner can file an affidavit of indigency, <a href="#">CV-410A</a>, if appropriate, to waive filing fees.</p>

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<p><b>9. Where can the petition be filed (venue)?</b></p> <p><i>Venue is the legally proper place where a particular case should be filed or handled. Venue dictates where a lawsuit can be brought.</i></p>	<ol style="list-style-type: none"> <li>1. County where petitioner resides</li> <li>2. County where respondent resides</li> <li>3. County where cause of action arose (where incident occurred)</li> <li>4. County where petitioner is temporarily residing <a href="#">§801.50(5r)</a>.</li> <li>5. Any county within a 100-mile radius of the county seat of the county in which the petitioner resides or in any county in which the petitioner is temporarily living if the petitioner is any of the following: <ol style="list-style-type: none"> <li>a. a victim advocate (defined in <a href="#">905.045(1)(e)</a>),</li> <li>b. an employee of the county court system</li> <li>c. a legal professional practicing law (defined in SCR <a href="#">23.01</a>),</li> <li>d. a current or former law enforcement officer (defined in <a href="#">102.475(8)(c)</a>)</li> <li>e. the spouse of any of the persons listed in (a)-(d)</li> <li>f. a person who is currently or has been in a dating relationship, (defined in <a href="#">813.12(1)(ag)</a>), with or a person who has a child in common with a person listed in (a)-(d)</li> <li>g. an immediate family member (defined in <a href="#">97.605(4)(a)(2)</a>) of a person listed in (a)-(d),</li> <li>h. or a household member (defined in <a href="#">813.12(1)(c)</a>) of a person listed in (a)-(d).</li> </ol> </li> </ol> <p><a href="#">§801.50(5r)</a></p>	<ol style="list-style-type: none"> <li>1. County where petitioner resides</li> <li>2. County where respondent resides</li> <li>3. County where cause of action arose (where incident occurred). <a href="#">§801.50(5s)</a>.</li> <li>4. Any county within a 100-mile radius of the county seat of the county in which the petitioner resides or in any county in which the petitioner is temporarily living if the petitioner is any of the following: <ol style="list-style-type: none"> <li>a. a victim advocate (defined in <a href="#">905.045(1)(e)</a>),</li> <li>b. an employee of the county court system</li> <li>c. a legal professional practicing law (defined in SCR <a href="#">23.01</a>),</li> <li>d. a current or former law enforcement officer (defined in <a href="#">102.475(8)(c)</a>)</li> <li>e. the spouse of any of the persons listed in (a)-(d)</li> <li>f. a person who is currently or has been in a dating relationship, (defined in <a href="#">813.12(1)(ag)</a>), with or a person who has a child in common with a person listed in (a)-(d)</li> <li>g. an immediate family member (defined in <a href="#">97.605(4)(a)(2)</a>) of a person listed in (a)-(d),</li> <li>h. or a household member (defined in <a href="#">813.12(1)(c)</a>) of a person listed in (a)-(d).</li> </ol> </li> </ol> <p><a href="#">§801.50(5s)</a></p>	<ol style="list-style-type: none"> <li>1. County where claim arose. <a href="#">§801.50(2)(a)</a>.</li> <li>2. County where defendant (respondent) resides. <a href="#">§501.50(2)(c)</a>.</li> </ol>	<ol style="list-style-type: none"> <li>1. County where petitioner resides</li> <li>2. County where respondent resides</li> <li>3. County where cause of action arose (where incident occurred). <a href="#">§801.50(5s)</a>.</li> <li>4. Any county within a 100-mile radius of the county seat of the county in which the petitioner resides or in any county in which the petitioner is temporarily living if the petitioner is any of the following: <ol style="list-style-type: none"> <li>a. a victim advocate (defined in <a href="#">905.045(1)(e)</a>),</li> <li>b. an employee of the county court system</li> <li>c. a legal professional practicing law (defined in SCR <a href="#">23.01</a>),</li> <li>d. a current or former law enforcement officer (defined in <a href="#">102.475(8)(c)</a>)</li> <li>e. the spouse of any of the persons listed in (a)-(d)</li> <li>f. a person who is currently or has been in a dating relationship, (defined in <a href="#">813.12(1)(ag)</a>), with or a person who has a child in common with a person listed in (a)-(d)</li> <li>g. an immediate family member (defined in <a href="#">97.605(4)(a)(2)</a>) of a person listed in (a)-(d),</li> <li>h. or a household member (defined in <a href="#">813.12(1)(c)</a>) of a person listed in (a)-(d).</li> </ol> </li> </ol> <p><a href="#">§801.50(5s)</a></p>

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<p><b>10. Are there other jurisdiction issues a court must consider beyond venue?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Yes. A court must have jurisdiction in order to hear a case. Venue is one part of jurisdiction. In addition to venue, a court must also have subject matter jurisdiction and personal jurisdiction before it can hear a case.</p> <p><b>Subject Matter Jurisdiction (SMJ)</b> is the authority of the court to hear particular cases, claims, or controversies, depending upon their “subject matter,” or the type of lawsuit that is being filed. If a court lacks SMJ, any judgment by the court is void and nullified. Restraining orders are found in sections §§813.12, 813.122, 813.123 and 813.125 of the WI Statutes. Thus, because they are found in state law, Wisconsin courts have authority to hear restraining order cases. Unlike personal jurisdiction, the respondent cannot waive SMJ; the court must have SMJ regardless of respondent’s willingness for the court to hear the case without it. Subject matter jurisdiction law is found in <a href="#">§801.04(1)</a>.</p> <p><b>Personal Jurisdiction (PJ)</b> is the authority to require a respondent to come into the state (WI) to defend against a lawsuit. When a case is brought, the court assumes PJ exists - it is the respondent’s duty to challenge PJ. Determining if the court has PJ depends on the defendant’s [respondent’s]: domicile; consent; physical presence; and minimum contacts with Wisconsin. <a href="#">§801.05</a>.</p> <p><u>Domicile:</u> Wisconsin has PJ over all Wisconsin residents.</p> <p><u>Consent:</u> A court may decide a case when it does not have PJ if the respondent has waived PJ.</p> <p><u>Physical Presence:</u> If the respondent is present in the state at the time the summons and complaints are served on them, then Wisconsin has PJ over the respondent.</p> <p><u>Minimum Contacts:</u> Wisconsin does have authority over a respondent from another state if the respondent has sufficient or minimum contacts with Wisconsin. When the respondent only has contact with Wisconsin in a single act, the state has PJ over respondent only as related to that single act or contact, but no PJ over unrelated claims.</p> <p><b>Abuse Across State Lines:</b> Wisconsin provides three ways to allow a court to exercise PJ over a respondent in a civil restraining order case involving interstate abuse.</p> <ol style="list-style-type: none"> <li>1. An act or threat (that is part of an ongoing pattern of harassment) outside the state has an <i>adverse effect</i> on petitioner or member of petitioner’s family or household and the petitioner lives in Wisconsin.</li> <li>2. The petitioner or member of petitioner’s family or household has sought safety or protection in Wisconsin as a result of an act or threat of respondent giving rise to petition.</li> </ol> <p><b>Note:</b> 1. And 2. Apply if while the petitioner or a member of the petitioner’s family or household lives or temporarily resides in Wisconsin, the respondent has direct or indirect communication with the petitioner or member of petitioner’s family/household OR if the respondent has indicated a threat to the physical health or safety of the petitioner or a member of the petitioner’s family/household</p> <ol style="list-style-type: none"> <li>3. PJ permissible under United States Constitution or Wisconsin Constitution. Court can exercise PJ within constitutional limit even if a specific statute does not cover the situation. See <a href="#">§801.05(11m)</a></li> </ol>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>11. Does Wisconsin recognize restraining orders from other countries?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p><b>Wisconsin statute explicitly recognizes restraining orders from Canada but does not address those from other countries.</b></p> <p><b>Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act:</b> Wisconsin requires law enforcement officers to enforce Canadian domestic violence protection orders as if they were ordered by a Wisconsin tribunal provided:</p> <ol style="list-style-type: none"> <li>1. Presentation to a law enforcement officer of a record of a Canadian domestic violence protection order that identifies both a protected individual and a respondent and on its face is in effect constitutes probable cause to believe that a valid order exists. <a href="#">Wis. Stat. 813.1283(3)(b)</a> OR</li> <li>2. If a record of a Canadian domestic violence protection order is not presented, a law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid Canadian domestic violence protection order exists. <a href="#">Wis. Stat. 813.1283(3)(c)</a></li> </ol> <p>If a law enforcement officer determines that an otherwise valid Canadian domestic violence protection order cannot be enforced because the respondent has not been notified of or served with the order, the officer shall notify the protected individual that the officer will make reasonable efforts to contact the respondent, consistent with the safety of the protected individual. After notice to the protected individual and consistent with the safety of the individual, the officer shall make a reasonable effort to inform the respondent of the order, notify the respondent of the terms of the order, provide a record of the order, if available, to the respondent, and allow the respondent a reasonable opportunity to comply with the order before the officer enforces the order. <a href="#">Wis. Stat. 813.1283(d)</a></p> <p>If a law enforcement officer determines that an individual is a protected individual, the officer shall inform the individual of available local victim services. <a href="#">Wis. Stat. 813.1283(e)</a></p> <p>A Canadian domestic violence protection order is enforceable by a tribunal if <b>all of the following are true:</b></p> <ol style="list-style-type: none"> <li>1. The order identifies a protected individual and a respondent.</li> <li>2. The order is valid and in effect.</li> <li>3. The issuing court had jurisdiction over the parties and the subject matter under law applicable in the issuing court.</li> <li>4. The order was issued after any of the following: <ol style="list-style-type: none"> <li>a. The respondent was given reasonable notice and had an opportunity to be heard before the court issued the order.</li> </ol> </li> </ol> <p>In the case of an ex parte order, the respondent was given reasonable notice and had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the right of the respondent to due process. <a href="#">Wis. Stat. 813.1283(4) (c)(1-4)</a></p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>12. Does Wisconsin recognize restraining orders from tribes?</b></p> <p><b>This information is the same for all types of restraining orders.</b></p>	<p>Yes, under the doctrine of “full faith and credit”: A temporary restraining order or injunction issued shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.</p> <p>See <a href="#">§813.12(9)</a>; <a href="#">813.122(12)</a>; <a href="#">813.123(12)</a>; <a href="#">813.125(8)</a></p> <p><b>See Question 13</b> for definition of “full faith and credit”</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>13. What is “full faith and credit”?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Full faith and credit is the requirement, derived from <a href="#">Article IV</a>, Section I of the Constitution, that state courts respect the laws and <a href="#">judgments</a> of courts from other states. This clause attempts to prevent conflict among states and ensure the dependability of judgments across the country. This does so by requiring courts to follow the judgments made on the same issue in another state. Otherwise, individuals could simply go to another state to relitigate issues that did not receive favorable judgments in previous cases, and this would result in states having different judgments that could cause competition among states. <a href="https://www.law.cornell.edu/wex/full_faith_and_credit">https://www.law.cornell.edu/wex/full_faith_and_credit</a></p> <p>WI restraining order statutes state that under the doctrine of Full faith and credit: a temporary restraining order or injunction issued shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.</p> <p>See <a href="#">§813.12(9)</a>; <a href="#">813.122(12)</a>; <a href="#">813.123(12)</a>; <a href="#">813.125(8)</a></p>			

## II. TEMPORARY RESTRAINING ORDERS (TRO)

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
14. How does a petitioner file for a TRO and/or injunction?	<p>1. Petitioner locates petition <a href="#">CV-402</a>, which can be found online, at domestic violence or sexual assault programs, or through the clerk of courts office.</p> <p>2. Petitioner completes petition and other required forms and files with the clerk of courts office or eFiles.</p> <p>3. Once petitioner requests a TRO, the court shall issue or refuse to issue the order.</p> <p>4. If the TRO is not granted, a hearing for injunction shall be set upon motion by either party. <a href="#">§813.12(2m)</a>.</p> <p><b>Note:</b> If the TRO is granted, the order will set the date for the hearing on an injunction.</p> <p><a href="#">§813.12(2m)</a></p>	<p>1. Petitioner locates petition <a href="#">CV-412</a> or <a href="#">JC-1690</a> if there is a CHIPS proceeding or respondent is a minor, which can be found online, at domestic violence, or sexual assault programs or through the clerk of courts office.</p> <p>2. Petitioner completes petition and other required forms and files with the clerk of courts office or eFiles.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If the TRO is not granted, a hearing for injunction shall be set upon motion by either party. <a href="#">§813.122(3)(a)</a>.</p> <p><b>Note:</b> If the TRO is granted, the order will set the date for the hearing on an injunction. <a href="#">§813.122(3)(a)</a></p>	<p>1. Petitioner locates petition <a href="#">CV-428</a>, which can be found online, at domestic violence or sexual assault programs, or through the clerk of courts office.</p> <p>2. Petitioner completes petition and other required forms and files with the clerk of courts office or eFiles.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If the TRO is not granted, a hearing for injunction shall be set upon motion by either party. <a href="#">§813.123(3)(a)</a>.</p> <p><b>Note:</b> If the TRO is granted, the order will set the date for the hearing on an injunction. <a href="#">§813.123(3)(a)</a>.</p>	<p>1. Petitioner locates petition <a href="#">CV-405</a> or <a href="#">JC-1693</a> if there is a CHIPS proceeding or respondent is a minor, which can be found online, at domestic violence or sexual assault programs, or through the clerk of courts office.</p> <p>2. Petitioner completes petition and other required forms and files with the clerk of courts office or eFiles.</p> <p>3. Once petitioner requests TRO, the court shall issue or refuse to issue the order.</p> <p>4. If TRO is not granted, a hearing for injunction shall be set upon motion by either party if domestic abuse under <a href="#">§813.12(1)(am)(1)-(6)</a> or stalking behavior in <a href="#">§940.32</a> is alleged in petition. <a href="#">§813.125(2m)</a>.</p> <p><b>Note:</b> If the TRO is granted, the order will set the date for the hearing on an injunction. <a href="#">§813.125(2m)</a>.</p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>15. What information should be included in a petition?</b>	<ol style="list-style-type: none"> <li>1. Name of the petitioner and that petitioner is the alleged victim.</li> <li>2. Name of respondent and that the respondent is an adult.</li> <li>3. Respondent engaged in or based on prior conduct may engage in domestic abuse of the petitioner.</li> <li>4. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner must indicate, if known: <ol style="list-style-type: none"> <li>a. Name or type of court proceeding.</li> <li>b. Date of court proceeding.</li> <li>c. Types of provisions regarding contact with petitioner and respondent.</li> </ol> <p style="text-align: center;"><a href="#">§813.12(5)(a).</a></p> </li> </ol>	<ol style="list-style-type: none"> <li>1. Name of the petitioner and child victim.</li> <li>2. Name of the respondent.</li> <li>3. Respondent engaged in or based on prior conduct may engage in abuse of the child victim.</li> <li>4. If payment of child support is requested, payment is reasonable or necessary based under <a href="#">§767.511</a>.</li> <li>5. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner must indicate, if known: <ol style="list-style-type: none"> <li>a. Name or type of court proceeding.</li> <li>b. Date of court proceeding.</li> <li>c. Types of provisions regarding contact with petitioner and respondent.</li> </ol> <p><a href="#">§813.122(6)(a)</a></p> </li> <li>6. A petition must include a UCCJEA Affidavit if filed against <ol style="list-style-type: none"> <li>a. A parent of the child;</li> <li>b. Legal guardian of child;</li> <li>c. Person who has court-ordered visitation with the child</li> </ol> <p>This is form <a href="#">GF-150</a> and the Clerk must keep it confidential and not disclose to the respondent.</p> </li> </ol>	<ol style="list-style-type: none"> <li>1. Name of the petitioner and the individual at risk.</li> <li>2. Name of the respondent and that the respondent is an adult.</li> <li>3. Respondent interfered with or based on past conduct may interfere with an investigation of: elder adult at risk; adult at risk; delivery of protective services to or a protective placement of individual at risk; delivery services to elder adult at risk; or respondent engaged or threatens to engage in abuse, financial exploitation, neglect, stalking, or harassment of an individual at risk or mistreatment of an animal.</li> <li>4. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner is to indicate any of the following if known: <ol style="list-style-type: none"> <li>a. Name or type of court proceeding.</li> <li>b. Date of court proceeding.</li> <li>c. Types of provisions regarding contact with petitioner and respondent.</li> </ol> <p><a href="#">§813.123(6).</a></p> </li> </ol>	<ol style="list-style-type: none"> <li>1. Name of the person who is the alleged victim.</li> <li>2. Name of the respondent.</li> <li>3. Respondent has engaged in harassment with intent to harass or intimidate the petitioner.</li> <li>4. If petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with respondent, petitioner must indicate, if known: <ol style="list-style-type: none"> <li>a. Name or type of court proceeding.</li> <li>b. Date of court proceeding.</li> <li>c. Types of provisions regarding contact with petitioner and respondent.</li> </ol> <p style="text-align: center;"><a href="#">§813.125(5)(a)</a></p> </li> </ol>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
16. Can a petitioner skip filing a TRO and file for an injunction only?	Yes. The petitioner always has the right to skip filing a TRO, and in some cases the petitioner may only have an injunction hearing. For example, if the petitioner is unable to successfully file for a TRO because they cannot show they are in imminent danger, they may decide to immediately go to the injunction stage. <a href="#">§813.12(2m)</a> .	Yes. The petitioner has the right to skip filing a TRO, and in some cases the petitioner may only have an injunction hearing. <a href="#">§813.122(3)(a)</a> .	Yes. The petitioner has the right to skip filing a TRO, and in some cases the petitioner may only have an injunction hearing. <a href="#">§813.123(3)(a)</a> .	Yes and No.  <b>Yes:</b> The petitioner can skip filing a TRO and <b>only have an injunction hearing for harassment cases alleging conduct that is the same as or similar to domestic abuse</b> (domestic abuse behavior under <a href="#">§813.12(1)(am)(1)-(6)</a> or stalking behavior under <a href="#">§940.32</a> .) (There is no fee.) <a href="#">§813.125(2m)</a> , <a href="#">§814.16(1)(e)</a> .  <b>No: In harassment cases where domestic abuse or similar conduct is not alleged the petitioner cannot skip filing a TRO.</b> In addition, if TRO is denied, there is no right to an injunction hearing.  <b>See Question 8</b> for more information about fees in harassment cases.
17. Must a petitioner tell the court about other no contact orders between the petitioner and the respondent?	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. <a href="#">§813.12(5)(a)4</a> .  The court may not dismiss or deny the petition for either the TRO or injunction based on the existence of other no contact orders between the parties. <a href="#">§813.12(3)(aj)</a> & <a href="#">§813.12(4)(aj)</a> .	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. <a href="#">§813.122(6)(a)5</a> .	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. <a href="#">§813.123(6)(d)</a> .	Yes. If the petitioner knows of any other court proceeding in which the petitioner is a person affected by a court order or judgment that includes provisions regarding contact with the respondent, the petitioner should include that information (including type, date, and specific provisions of the no contact order) on the petition. <a href="#">§813.125(5)(a)4</a> .  The court may not dismiss or deny the petition for either the TRO or injunction based on the existence of other no contact orders between the parties. <a href="#">§813.125(3)(e)</a> & <a href="#">§813.125(4)(aj)</a> .

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
18. Can the victim's address be kept confidential on the TRO petition?	Yes. Petitioner's address may not be disclosed on the petition, TRO or injunction. However, petitioner shall provide the clerk of court the petitioner's address when he or she files a petition. <a href="#">(CV-502)</a> . The clerk shall maintain petitioner's address in a confidential file. <a href="#">§813.12(5m)</a> .	Yes. Neither the petitioner nor the child victim's address may be disclosed on the petition, TRO or injunction. However, petitioner shall provide the clerk of court the petitioner's and alleged child victim's address when he or she files a petition. <a href="#">(CV-502)</a> . The clerk shall maintain the addresses in a confidential manner. <a href="#">§813.122(5g)</a>  Any record of action filed after April 18, 2014 under <a href="#">§813.122</a> is confidential and is only available to the parties, their attorneys, a guardian ad litem, court personnel, the child victim, law enforcement and any applicable court upon appeal. A record may be available to any other person as required by law, as necessary to effect service, or upon a court order for good cause shown. <a href="#">§813.122(3)(bq)</a> .	Yes. Neither the petitioner nor the individual at risk's address may be disclosed on the petition, TRO or injunction. However, petitioner shall provide the clerk of court the petitioner's and the individual at risk's address when he or she files a petition. <a href="#">(CV-502)</a> . The clerk shall maintain the addresses in a confidential manner. <a href="#">§813.123(5g)</a> .	Yes. Petitioner's address may not be disclosed on the petition, TRO or injunction. However, petitioner shall provide clerk of court with petitioner's address when he or she files <a href="#">(CV-502)</a> . The clerk shall maintain petitioner's address in a confidential file. <a href="#">§813.125(5m)</a> .
19. Can a petitioner include their children or family members on a TRO petition?	No. Petition may only include:  1. Name of petitioner and that petitioner is alleged victim; <b>and</b> 2. Victim is an adult; <b>and</b> 3. Name of respondent and the respondent is an adult. <a href="#">§813.12(5)(a)</a> . 4. Each person who is an eligible victim must file his/her own petition. However, the court may hear two petitions at the same injunction hearing, if the respondent is the same person. <a href="#">§813.127</a> .	Yes. The petition may include:  1. Name of petitioner and child victim; <b>and</b> 2. Name of respondent. <a href="#">§813.122(6)(a)</a> .  <b>Note:</b> An action under this section may pertain to more than one <i>child victim</i> . <a href="#">§813.122(3)(c)</a> .  Court may hear two petitions at same injunction hearing, if respondent is same person. <a href="#">§813.127</a>	No. Petitioner may only include:  1. Name of petitioner and individual at risk; <b>and</b> 2. Name of respondent and that respondent is an adult. <a href="#">§813.123(6)</a> .	No. The petitioner may only include:  1. Name of the person who is the alleged victim; <b>and</b> 2. Name of the respondent. <a href="#">§813.125(5)(a)</a> 3. Each person who is an eligible victim must file his/her own petition. However, the court may hear two petitions at the same injunction hearing, if the respondent is the same person. <a href="#">§813.127</a> .
20. Is notice required for the court to issue a TRO?  <i>This information is the same for all types of restraining orders.</i>	No. Notice need not be given to the respondent before issuing a TRO. <a href="#">§813.12(3)(b)</a> , <a href="#">§813.122(4)(b)</a> , <a href="#">§813.123(4)(b)</a> , <a href="#">§813.125(3)(b)</a> .			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>21. How long is a TRO in effect?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Until a hearing is held on the issuance of an injunction, which shall be within 14 days after the TRO is issued, unless an extension is granted.</p> <p><a href="#">§813.12(3)(c)</a>, <a href="#">§813.122(4)(c)</a>, <a href="#">§ 813.123(4)(c)</a>, <a href="#">§813.125(3)(c)</a>.</p>			
<p>22. When can the court extend a TRO?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>The time may be extended upon:</p> <ol style="list-style-type: none"> <li>1. Written consent of parties; <b>or</b></li> <li>2. If there is a substitution of judge under <a href="#">§801.58(2m)</a>. <b>or</b></li> <li>3. Once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence.</li> </ol> <p><a href="#">Hill v. D.C., 2014 WI App 99 (filed 9 Sept. 2014) (ordered published 29 Oct. 2014)</a></p> <p><a href="#">§813.12(3)(c)</a>, <a href="#">§813.122(4)(c)</a>, <a href="#">§813.123(4)(c)</a>, <a href="#">§813.125(3)(c)</a></p>			
<p>23. May the court extend a TRO and not rule on the injunction?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>No. A judge or court commissioner may not extend the TRO in lieu of ruling on the issuance of an injunction.</p> <p><a href="#">§813.12(3)(c)</a>, <a href="#">§813.122(4)(c)</a>, <a href="#">§813.123(4)(c)</a>, <a href="#">§813.125(3)(c)</a></p>			
<p>24. Can the court issue a dual or mutual TRO?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>No. A TRO may be entered only against respondent named in the petition.</p> <p><a href="#">§813.12(3)(b)</a>, <a href="#">§813.122(4)(b)</a>, <a href="#">§813.123(4)(b)</a>, <a href="#">§813.125(3)(b)</a>.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
25. Who can have contact with the petitioner on behalf of the respondent?	<p>Only law enforcement and/or the respondent's attorney may contact the petitioner for Domestic Abuse, Individual at Risk, and Harassment restraining orders. <a href="#">§813.12(3)(a)</a>, <a href="#">§813.123(4)(ar)4.</a>, <a href="#">§813.125(3)(a)</a></p> <p>Only a party's attorney may contact the petitioner in Child Abuse restraining orders. <a href="#">§813.122(4)(a)</a></p>			
26. If the petitioner files a domestic abuse TRO, can the court allow the petitioner to enter a stipulation to convert the petition to a harassment TRO?	<p>If the parties enter a stipulation to convert a petition for TRO or injunction to a harassment TRO or injunction, the court may not approve unless:</p> <ol style="list-style-type: none"> <li>1. Either/both parties submit an oral request on record explaining the reason for conversion request; <b>and</b></li> <li>2. The court addresses petitioner personally to determine petitioner entered stipulation voluntarily and with understanding of the differences between the orders.</li> </ol> <p><a href="#">§813.12(5g)</a></p>	<p><a href="#">§813.122</a> does not address this issue.</p>	<p><a href="#">§813.123</a> does not address this issue.</p>	<p><a href="#">§813.125</a> does not address this issue.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
27. If the court denies the request for a TRO, is an injunction hearing still possible?	<p>Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent. <a href="#">§813.12(2m)</a>.</p> <p><b>Note:</b> <a href="#">CV-402</a>, to file for a TRO and/or injunction; if the TRO is denied, the court will complete <a href="#">CV-446</a> to assign an injunction hearing date.</p>	<p>Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent. <a href="#">§813.122(3)(a)</a>.</p> <p><b>Note:</b> <a href="#">CV-412</a>, to file for a TRO and/or injunction; if the TRO is denied, the court will complete <a href="#">CV-447</a> to assign an injunction hearing date.</p>	<p>Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent. <a href="#">§813.123(3)(a)</a>.</p> <p><b>Note:</b> <a href="#">CV-428</a>, to file for a TRO and/or injunction; if the TRO is denied, the court will complete <a href="#">CV-448</a> to assign an injunction hearing date.</p>	<p>Yes and No. <b>Yes, IF</b> a TRO is not requested, or if court does not issue a TRO, a date for an injunction hearing <i>shall</i> be set by the court upon motion by either petitioner or respondent if one of the following conditions applies:</p> <ol style="list-style-type: none"> <li>1. The petitioner alleges domestic abuse behavior [from <a href="#">§813.12(1)(am)(1)-(6)</a> in the TRO petition; <i>or</i></li> <li>2. The petitioner alleges stalking behavior [as defined in <a href="#">§940.32</a>] in the TRO petition. <a href="#">§813.125(2m)</a>.</li> </ol> <p><b>No, IF</b> the petitioner does not allege domestic abuse or stalking conduct, petitioner cannot skip filing a TRO. If TRO is denied, there is no right to an injunction hearing.</p> <p><b>Note:</b> <a href="#">CV-405</a>, to file for a TRO and/or injunction; if the TRO is denied, the court will complete <a href="#">CV-449</a> to assign an injunction hearing date.</p>
28. Does the firearm surrender law apply when a TRO is issued?	<p>No. It only applies when an injunction is granted. <a href="#">§813.12(4m)(a)(2)</a></p>	<p>No. It only applies when an injunction is granted. <a href="#">§813.122(5m)(a)2</a>.</p>	<p>No. It only applies when an injunction is granted. <a href="#">§813.123(5m)(a)</a>.</p>	<p>No. It only applies when an injunction is granted. <a href="#">§813.125(4m)(a)</a>.</p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>29. Can the court order law enforcement to assist in gaining physical possession of a home after the TRO is granted?</b>	Yes. The court shall order the sheriff to accompany the petitioner & assist in placing him or her in physical possession of his or her residence upon request by the petitioner. <a href="#">§813.12(6)(a).</a>  <a href="#">Hayen v. Hayen, 232 Wis.2d 447 (Ct. App. 1999).</a>	<a href="#">§813.122</a> does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.	<a href="#">§813.123</a> does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.	Yes. The court shall order the sheriff to accompany the petitioner & assist in placing him or her in physical possession of his or her residence upon request by the petitioner. <a href="#">§813.125(5g)(c)</a>

### III. SERVICE OF TRO/INJUNCTION

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>30. After a TRO is issued, is it necessary to serve the TRO on the respondent?</b>	Yes. The petitioner serves upon the respondent a copy or summary of the petition and notice of time of the injunction hearing. <a href="#">§813.12(4)(a)2.</a>  The court shall advise petitioner of right to serve the respondent by published notice. <a href="#">§813.12(3)(d).</a>	Yes. The petitioner must serve upon the respondent a copy of the petition and notice of the time of the injunction hearing. <a href="#">§813.122(5)(a)2.</a>	Yes. The petitioner must serve the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction. <a href="#">§813.123(5)(a)2</a>	Yes. The petitioner serves the respondent a copy of the TRO and notice of the time for the hearing on the issuance of the injunction. <a href="#">§813.125(4)(a)2.</a>  The court shall advise petitioner of right to serve the respondent by published notice. <a href="#">§813.125(3)(d).</a>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SETION 813.123	HARASSMENT SECTION 813.125
<p>31. Does the law mandate a law enforcement officer to make an arrest for violation of a TRO?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Yes, if:</p> <ol style="list-style-type: none"> <li>1. Presented with court order or law enforcement officer verifies a court order exists; <b>and</b></li> <li>2. Officer has probable cause to believe person has violated court order.</li> </ol> <p><a href="#">§813.12(7)(am)</a>, <a href="#">§813.122(10)(am)</a>, <a href="#">§813.123(9)(am)</a>, <a href="#">§813.125(6)(am)</a>.</p>			
<p>32. Is the TRO voided if respondent is admitted into the home or if petitioner contacts respondent?</p>	<p>No. The TRO is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. <a href="#">§813.12(3)(c)</a>.</p> <p>The TRO statute does not contain language to address if petitioner contacts respondent. <b>But see Question 82:</b> the <i>injunction</i> statutory section does address this issue.</p>	<p><a href="#">§813.122</a> does not contain language to address this issue.</p>	<p><a href="#">§813.123</a> does not contain language to address this issue.</p>	<p><a href="#">§813.125</a> does not contain language to address this issue.</p>
<p>33. Can a TRO be enforced if other no contact orders exist?</p>	<p>Yes. A TRO is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact. <a href="#">§813.12(6)(d)</a>.</p>	<p><a href="#">§813.122</a> does not address this issue</p>	<p><a href="#">§813.123</a> does not address this issue.</p>	<p>Yes. A TRO is enforceable despite any other criminal or civil order restricting or prohibiting contact. <a href="#">§813.125(5g)(d)</a>.</p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SETION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<p><b>34. How does the petitioner serve the TRO or injunction on the respondent?</b></p>	<ol style="list-style-type: none"> <li>The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. <a href="#">§813.12(6)(ag)</a>.</li> <li>The court shall inform petitioner in writing petitioner should contact sheriff to verify proof of service of petition. <a href="#">§813.12(2)(a)</a>.</li> <li>At petitioner's expense, the petitioner may use a private process server. <a href="#">§813.12(6)(ag)1</a>. See also <a href="#">§801.11</a>.</li> <li>If court extends time for a hearing &amp; petitioner files an affidavit with court stating, personal service by sheriff or private server was unsuccessful because respondent is avoiding service by concealment or otherwise, petitioner may serve respondent by publication of summary of petition as a class 1 notice &amp; by mailing or sending facsimile of summary. If mailing address or facsimile number cannot be ascertained with due diligence, they may be omitted. <a href="#">§813.12(2)(a)</a>.</li> </ol> <p><b>Note:</b> If respondent has been served with a copy of petition and notice of time for hearing under <a href="#">§813.12(4)(a)2</a>, respondent has constructive knowledge of existence of injunction, regardless of whether respondent has been served with copy of injunction. <a href="#">§813.12(7)(c)</a>.</p>	<ol style="list-style-type: none"> <li>The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. <a href="#">§813.122(9)(a)</a>. The court shall inform petitioner in writing that petitioner should contact sheriff to verify proof of service of the petition. <a href="#">§813.122(2)(a)</a>.</li> <li>Petitioner may, at his or her expense, elect to use a private server to effect service. <a href="#">§813.122(9)(a)1</a>. See also <a href="#">§801.11</a>.</li> </ol> <p><b>Note:</b> If the respondent has been served with a copy of the petition and notice of the time for hearing under <a href="#">§813.122(5)(a)2</a>, the respondent has constructive knowledge of the existence of the injunction, regardless of whether the respondent has been served with a copy of the injunction. <a href="#">§813.122(10)(c)</a>.</p>	<ol style="list-style-type: none"> <li>The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. <a href="#">§813.123(8)(a)</a>. The court shall inform petitioner in writing that petitioner should contact sheriff to verify proof of service of the petition. <a href="#">§813.123(2)(a)</a>.</li> <li><a href="#">§813.123</a> does not address the issue of private service. However, private service is possible. See <a href="#">§801.11</a>.</li> </ol> <p><b>Note:</b> If the respondent has been served with a copy of the petition and notice of the time for hearing under <a href="#">§813.123(5)(a)2</a>, respondent has constructive knowledge of existence of injunction, regardless of whether respondent has been served with a copy of injunction. <a href="#">§813.123(9)(c)</a>.</p>	<ol style="list-style-type: none"> <li>The clerk shall forward the documents to the sheriff and the sheriff shall assist in serving them. <a href="#">§813.125(5g)(cm)</a>. The court shall inform petitioner in writing petitioner should contact sheriff to verify proof of service of petition. <a href="#">§813.125(2)(a)</a>.</li> <li>At petitioner's expense, petitioner may use a private process server. <a href="#">§813.125(5g)(cm)1</a> See also <a href="#">§801.11</a>.</li> <li>If court extends time for hearing &amp; petitioner files an affidavit with court stating that personal service by sheriff or a private server was unsuccessful because respondent is avoiding service by concealment or otherwise, petitioner may serve respondent by publication of summary of petition as a class 1 notice &amp; by mailing or sending facsimile of summary. If mailing address or facsimile number cannot be ascertained with due diligence, they may be omitted. <a href="#">§813.125(2)(a)</a>.</li> </ol> <p><b>Note:</b> If respondent has been served with copy of petition and notice of time of hearing under <a href="#">§813.125(4)(a)2</a>, respondent has constructive knowledge of existence of injunction, regardless of whether respondent has been served with a copy of injunction. <a href="#">§813.125(6)(c)</a>.</p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SETION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<p><b>35. Is law enforcement in another county/state mandated to provide service?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>While other counties/states are not mandated to provide service, if one WI county receives a restraining order from another WI county which needs to be served, they generally will and do assist each other. All states which receive VAWA funds (such as Wisconsin) are subject to a provision which states that law enforcement agencies are to serve protection orders “to protect a victim of domestic violence, dating violence, stalking, or sexual assault” on respondents without payment of filing or service fees by the victim. See <a href="#">34 USC § 10450</a> This provision is in compliance with the STOP grants and CDS (formerly Grants to Encourage Arrest) grants, both which WI receives. Federal law says victims are not to bear any costs associated with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a protection order for any victim of domestic violence, dating violence, sexual assault or stalking whether issued inside or outside the State, tribe or local jurisdiction. Thus, since WI counties are subject to this law, they will usually provide service for an order from another county as a professional courtesy and not charge the other county or county law enforcement agency for this service.</p> <p><b>State law also states counties cannot charge the victim for service fees for Domestic Abuse, Child Abuse and Individual at Risk restraining orders. No service fee can be charged in harassment cases if the petition alleges conduct that is the same or similar to conduct that is prohibited under <a href="#">s. 940.32</a>, or that is listed in <a href="#">s. 813.12(1)(am)</a>. to <a href="#">6. See Wis. Stat. 814.70(1)</a></b></p> <p>Whether another state will provide service depends on that state’s laws regarding service of out of state restraining orders. It may also depend on the policies and procedures of a particular county in that state. Again, federal legislation states that victims are not to be charged for the service of protection orders “to protect a victim of domestic violence, dating violence, stalking, or sexual assault.” As a result, most states will assist another state in service of the restraining order without any cost to that law enforcement agency to comply with the spirit of the federal legislation. Law enforcement agencies may wish to have a Memo of Understanding (MOU) between themselves and any other agency with whom they regularly do business to clarify this issue.</p> <p>An advocate may wish to contact the sheriff in the other county or the person who provides service in the other state to ask about the policy and procedures and to ask that law enforcement agency to assist with service of the restraining order in keeping with federal law.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SETION 813.123	HARASSMENT SECTION 813.125
<p><b>36. What can the petitioner or advocate do if law enforcement in another county/state will not provide service or wishes to charge for service of the restraining order?</b></p> <p>This information is the same for all types of restraining orders.</p>	<ol style="list-style-type: none"> <li>1. As a professional courtesy, counties and states usually provide service of restraining orders for another county or state when the order is “to protect a victim of domestic violence, dating violence, stalking, or sexual assault” because of the federal legislation noted in <b>Question 35</b> above. Contact the law enforcement agency to be certain they are aware of this federal law.</li> <li>2. Encourage the agencies within the state or county who are not providing this service to develop a Memo of Understanding (MOU) to be certain service does occur without causing hardship to the petitioner which is in violation of the spirit of federal law.</li> <li>3. Contact the point person in the state in which the law enforcement agency is not providing service or wishes to charge for service to ask them to speak to the law enforcement agency about the federal law, its intent and its spirit. The point person for distribution of VAWA funds can be obtained through the <a href="#">National Center on Protection Orders and Full Faith &amp; Credit</a>.</li> <li>4. While a petitioner may hire a private process server to serve the defendant at the petitioner’s own expense, this WI provision [See <a href="#">§813.12(6)(ag)(1)</a>; <a href="#">§813.122(9)(a)1.</a>; <a href="#">§813.123(8)(a)1.</a>; <a href="#">§813.125(5g)(cm)1.</a> is designed for situations in which the petitioner chooses a private process server for reasons known only to the petitioner. It is a violation of the federal law to <b>force a petitioner to use and pay for a private process server</b> because federal law says victims are not to bear any costs associated with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a protection order for any victim of domestic violence, dating violence, sexual assault or stalking whether issued inside or outside the State, tribe or local jurisdiction. See <a href="#">§813.12(6)</a>, <a href="#">§813.122(9)</a>, <a href="#">§813.123(8)</a>, <a href="#">§813.125(5g)</a>.</li> </ol>			
<p><b>37. What information must be included in the TRO/Notice of Hearing to the respondent?</b></p>	<p>The notice shall include the time for the hearing on the issuance of the injunction. <a href="#">§813.12(4)(a)2.</a></p>	<p>The notice shall include the time for the hearing on the issuance of the injunction. <a href="#">§813.122(5)(a)2.</a></p>	<ol style="list-style-type: none"> <li>1. The notice shall include time for hearing on issuance of the injunction.</li> <li>2. If court issues injunction, court can also order respondent not to possess a firearm while injunction is in effect. <a href="#">§813.123(5)(a)2.</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Notice shall include time for hearing on issuance of injunction.</li> <li>2. If court issues injunction, court can also order respondent not to possess a firearm while injunction is in effect. <a href="#">§813.125(4)(a)2.</a></li> </ol>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SETION 813.123	HARASSMENT SECTION 813.125
38. Is it possible to provide notice of a TRO and/or injunction by service of publication?	<p>Yes. A summary of the petition may be published as a class 1 notice when the respondent is avoiding service. The publication shall include the name of the petitioner and respondent, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction. <a href="#">§813.12(2)(a)</a>; <a href="#">§985.07</a>.</p> <p><b>See Question 39</b> for service by publication instructions.</p>	<p><a href="#">§813.122</a> does not address this issue.</p>	<p><a href="#">§813.123</a> does not address this issue.</p>	<p>Yes. A summary of the petition may be published as a class 1 notice when the respondent is avoiding service. The publication shall include the name of the petitioner and respondent, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction. <a href="#">§§813.125(2)(a)</a>; <a href="#">§985.07</a>.</p> <p><b>See Question 39</b> for service by publication instructions.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SETION 813.123	HARASSMENT SECTION 813.125
<p>39. What is the process to provide service by publication?</p> <p><i>This information depends on the type of restraining order.</i></p>	<p><b>For domestic abuse and harassment:</b></p> <ol style="list-style-type: none"> <li>1. Mail or fax the court documents that would have been personally served (including the order to appear at the rescheduled injunction hearing) to the respondent's post-office address or fax number if the address or fax number is known or can be ascertained with due diligence. Complete the <i>Publication Affidavit of Mailing or Facsimile (CV-506)</i>. This form must be signed in front of a notary public and notarized. The completed Affidavit will be filed with the court at the rescheduled injunction hearing.</li> <li>2. Determine which newspapers print Class 1 legal notices. For a list of newspapers organized by county, visit: <a href="https://doa.wi.gov/Pages/LegalNotices.aspx">https://doa.wi.gov/Pages/LegalNotices.aspx</a> A Class 1 notice only needs to be printed once. §985.07(1). The publication must be in a newspaper "likely to give notice in the area or to the person affected." §985.02(1). The notice must include: name of respondent and name of petitioner; notice of TRO; notice of the date, time, &amp; place of injunction hearing. §813.12(2)(a).</li> <li>3. Provide the required information to the newspaper in the form required. Call the newspaper to learn: fee for Class 1 notice; if the newspaper has a standard form for a Class 1 notice or if the petitioner creates their own form; how the newspaper wishes to receive the notice; when the notice will be published; and when and how the petitioner will receive an affidavit or proof of publication. If petitioners are required to create their own form to provide notice to the paper, they can use <i>Publication Notice (Domestic Abuse Injunction Hearing) (CV-417)</i> for domestic abuse restraining order cases and <i>Publication Notice (Harassment Injunction Hearing) (CV-505)</i> for harassment restraining order cases.</li> <li>4. Once the legal notice is published, the newspaper will send an affidavit of publication to the petitioner. If the affidavit does not include a copy of the notice, the petitioner must locate a copy of the legal notice. For the hearing, the petitioner must provide the affidavit of publication and attach a copy of the notice. §985.12. The petitioner should also provide the <i>Publication Affidavit of Mailing or Facsimile (CV-506)</i>. If the petitioner is unable to obtain proof of service by publication before the injunction hearing, the court will likely deny the injunction.</li> </ol> <p><b>NOTE:</b> <a href="#">§813.122</a> (child abuse) and <a href="#">§813.123</a> (individual at risk) do not address this issue.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SETION 813.123	HARASSMENT SECTION 813.125
<p><b>40. How does VINE Protection Order (VPO) and Victim Information and Notification Everyday (VINE) apply to the service of the TRO?</b></p> <p><i>This information is the same for all types of restraining orders EXCEPT CHILD ABUSE TEMPORARY RESTRAINING ORDERS.</i></p>	<p><i>VPO notification of service for child abuse TRO is not possible because child abuse info is confidential; thus, child abuse TRO/injunction data is not accessible in CCAP where VPO gets its information from. Any record of a child abuse restraining order, including notification of service, is available only to the parties, their attorneys, any guardian ad litem, court personnel, the child victim, law enforcement, any applicable court upon appeal of a child abuse TRO or upon a court order for good cause shown. <a href="#">§813.122(3)(bq)</a>.</i></p> <p><i>Thus, if petitioner filed a child abuse TRO, petitioner must check with the sheriff to determine whether the TRO is served. Service must occur prior to the injunction hearing in order for the court to conduct the injunction hearing.</i></p> <ol style="list-style-type: none"> <li><b>1. VPO (VINE Protective Order)</b> <ol style="list-style-type: none"> <li>a. When a petitioner obtains a TRO, VPO is available for notification of service, <b>except for a child abuse TRO as noted above</b>. IF a petitioner registers for VPO, the petitioner is notified via telephone and/or email when the TRO service is completed. The choice of notification by telephone and/or email is determined by the petitioner upon registration. If petitioner decides to use telephone notification, petitioner will receive a 4-digit PIN number upon registration. VPO's notification system will alert petitioner of service of the TRO, the injunction, and when the respondent surrenders any firearms to local law enforcement, if firearms surrender is applicable. Petitioner registers for these services only one time in order to receive service notification of the TRO, injunction, and firearm restrictions.</li> <li>b. To register, petitioners need the 12 digit CCAP case number, county where the TRO was filed, and respondent's first and last name. ---Petitioners can register either online at <a href="https://www.vinelink.com/#state-selection">https://www.vinelink.com/#state-selection</a> or call 1-855-948-7648.</li> <li>c. <b>Note:</b> VPO registration is available to the general public; thus, advocates, family members, judicial officials or others can register. The registration process is the same as noted above for the petitioner.</li> </ol> </li> <li><b>2. VINE (Victim Information and Notification Everyday)</b> <ol style="list-style-type: none"> <li>a. VINE is a notification system that provides petitioners notification when respondents are released from jail or other custody status of the offender. Similar to VPO, the registration process and notification system are the same. Register at <a href="https://www.vinelink.com">vinelink.com</a>. See <a href="https://doc.wi.gov/Pages/VictimServices/WIVINECountyJails.aspx">https://doc.wi.gov/Pages/VictimServices/WIVINECountyJails.aspx</a> for more information. <b>Note: VPO provides notification of service of restraining orders; VINE provides information about offender status.</b></li> </ol> </li> </ol>			
<p><b>41. Who can petitioner contact for VPO information?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Petitioners may contact the Wisconsin Department of Corrections Office of Victim Services and Programs for information on VPO</p> <p>Petitioner can reach the Office of Victim Services and Programs by calling 1-800-947-5777 or by visiting their <a href="#">website</a>.</p>			

IV. INJUNCTIONS

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
42. Is notice required before the court can issue an injunction?	Yes. Petitioner must serve respondent copy or summary of petition and notice of time for hearing on issuance of injunction. <a href="#">§813.12(4)(a)2.</a>	Yes. Petitioner must serve respondent copy of petition and notice of time for hearing on issuance of injunction. <a href="#">§813.122(5)(a)2.</a>	Yes. The petitioner must serve the respondent a copy of the petition and notice of the time for hearing on the issuance of the injunction. <a href="#">§813.123(5)(a)2.</a>	Yes. The petitioner serves respondent a copy of TRO and notice of time for the hearing on the issuance of the injunction. <a href="#">§813.125(4)(a)2.</a>
43. What type of conduct must be alleged/shown to allow the court to order an injunction?	<ol style="list-style-type: none"> <li>1. Intentional infliction of physical pain, physical injury or illness; <b>or</b></li> <li>2. Intentional impairment of physical condition; <b>or</b></li> <li>3. Violation of 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree sexual assault under <a href="#">§940.225(1), (2) or (3)</a>; <b>or</b></li> <li>4. Stalking under <a href="#">§940.32</a>; <b>or</b></li> <li>5. Intentional damage to physical property belonging to the individual (petitioner) under <a href="#">§943.01</a>; <b>or</b></li> <li>6. Threat to engage in conduct under 1, 2, 3, 4, 5. <a href="#">§813.12(1)(am)1. to 6.</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Physical injury inflicted on child by other than accidental means; <b>or</b></li> <li>2. Sexual intercourse or sexual contact under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault], <a href="#">§948.02</a> [1<sup>st</sup>, or 2<sup>nd</sup> degree sexual assault of child], <a href="#">§948.025</a> [repeated acts of sexual assault]; or <a href="#">§948.085</a> [sexual assault in substituted care] <b>or</b></li> <li>3. Sexual exploitation of child; <b>or</b></li> <li>4. Trafficking of a child; or</li> <li>5. Permitting, allowing or encouraging child to engage in prostitution; <b>or</b></li> <li>6. Causing a child to view or listen to sexual activity; <b>or</b></li> <li>7. Causing child to expose or exposing genitals or pubic area to child; <b>or</b></li> <li>8. Manufacturing methamphetamines with child physically present during manufacture, in or on premises of child's home or in motor vehicle located on premises of child's home, or under any circumstances in which a reasonable person should have known that manufacture would be seen, smelled, or heard by child; <b>or</b></li> <li>9. Emotional damage; <b>or</b></li> <li>10. Threat to engage in conduct above. <a href="#">§813.122(1)(a)</a>; <a href="#">§48.02(1)(a), (b) to (am)</a>.</li> </ol>	<ol style="list-style-type: none"> <li>1. Interference with, or based on prior conduct of person may interfere with, an investigation of individual at risk, delivery of protective services to the individual at risk under <a href="#">§55.05</a>, the delivery of protective placement under <a href="#">§55.06</a>, or the delivery of services to an elder adult at risk under <a href="#">§46.90(5m)</a>; <b>and</b> the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, or self-neglect has occurred, is occurring, or may recur.</li> <li>2. Physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, or stalking of an individual at risk or the mistreatment of an animal. <a href="#">§813.123(4)(a)2.a. and b.</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Striking, shoving, kicking or subjecting another to physical contact;</li> <li>2. Child Abuse under <a href="#">§48.02(1)</a>.</li> <li>3. Sexual intercourse or sexual contact under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault]</li> <li>4. Stalking under <a href="#">§940.32</a> [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury].</li> <li>5. Attempting or threatening any of the above. <a href="#">§813.125(1)(am)4.a.</a></li> <li>6. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person &amp; which serve no legitimate purpose. <a href="#">§813.125(1)(am)4.b.</a></li> </ol> <p>A legitimate purpose is one that is protected or permitted by law...a determination that must be left to the fact finder, taking into account all the facts and circumstances. <a href="#">Welytok v. Ziolkowski, 312 Wis.2d 435, 455</a> (citing <a href="#">Bachowski v. Salamone, 139 Wis.2d 397, 408 (1987)</a>).</p> <p><b>Note:</b> Injunctions must be specific as to the prohibited acts and conduct in order for the person being enjoined to know what conduct must be avoided. <a href="#">Bachowski, 139 Wis.2d at 414.</a></p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<p><b>44. How long can an injunction be granted?</b></p>	<p>For period of time the petitioner requests, but no more than four years, except as provided below. <a href="#">§813.12(4)(c)1.</a></p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:</p> <ul style="list-style-type: none"> <li>• There is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a> or 2nd degree intentional homicide under <a href="#">§940.05</a>.</li> <li>• There is a substantial risk the respondent may commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the petitioner. <a href="#">§813.12(4)(d)1.</a></li> </ul> <p><a href="#">Laluzerne v. Stange, 200 Wis. 2d 179 (Ct. App. 1996):</a></p> <p>“Under clear and unambiguous language of <a href="#">§813.12(4)(c)</a>, injunction is effective for period of time petitioner requests.”</p> <p>Separately, upon request by the petitioner, court may order a permanent injunction if respondent has been convicted of sexual assault under <a href="#">§ 940.225(1) to (3)</a> in which the petitioner was the crime victim. <a href="#">§813.12(4)(d)(1m).</a></p>	<p>For no more than two years or until the child victim reaches 18 years of age, whichever occurs first, except as provided in <a href="#">§813.122(5)(d).</a></p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 5 years if the court finds by a preponderance of the evidence that any of the following is true:</p> <ul style="list-style-type: none"> <li>• There is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a> or 2nd degree intentional homicide under <a href="#">§940.05</a>.</li> <li>• There is a substantial risk the respondent may commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the child victim. <a href="#">§813.122(5)(dm)1.</a></li> </ul> <p>Separately, upon request by the petitioner, a judge may order that the injunction is in effect permanently if the respondent has been convicted of a violation of <a href="#">§948.02</a> or <a href="#">§948.025</a> in which the child victim was the crime victim. <a href="#">§813.122(5)(dm)1m.</a></p>	<p>No more than four years, except as provided below. <a href="#">§813.123(5)(c)1.</a></p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:</p> <ul style="list-style-type: none"> <li>• There is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a> or 2nd degree intentional homicide under <a href="#">§940.05</a>.</li> <li>• There is a substantial risk the respondent may commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the person at risk. <a href="#">§813.123(5)(d)1.</a></li> </ul> <p>Separately, upon request by the petitioner, court may order a permanent injunction if respondent has been convicted of sexual assault under <a href="#">§ 940.225(1) to (3)</a> in which the petitioner was the crime victim. <a href="#">§813.123(5)(d)1m.</a></p>	<p>No more than four years, except as provided in <a href="#">§813.125(4)(c), §813.125(4)(d).</a></p> <p>Upon issuing an injunction [or granting an extension] of an injunction, the court may order the injunction be in effect for not more than 10 years if the court finds by a preponderance of the evidence that any of the following are true:</p> <ul style="list-style-type: none"> <li>• There is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a> or 2nd degree intentional homicide under <a href="#">§940.05</a>.</li> <li>• There is a substantial risk the respondent may commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the petitioner. <a href="#">§813.125(4)(d)1.</a></li> </ul> <p>Separately, upon request by petitioner court may order a permanent injunction if respondent has been convicted of sexual assault under <a href="#">§940.225(1) to (3)</a> in which petitioner is crime victim. <a href="#">§813.125(4)(d)1m.</a></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>45. What must the court find to allow the court to grant an injunction?</b></p>	<ol style="list-style-type: none"> <li>1. Petition has been filed alleging certain elements; <b>and</b></li> <li>2. Petitioner serves petition &amp; notice of time of hearing on respondent <b>or</b> respondent serves notice of time for hearing upon petitioner; <b>and</b></li> <li>3. Court finds reasonable grounds to believe respondent               <ol style="list-style-type: none"> <li>a. has engaged in domestic abuse of petitioner <b>or</b></li> <li>b. based on prior conduct of petitioner and respondent may engage in, domestic abuse of petitioner. <a href="#">§813.12(4)(a).</a></li> </ol> </li> </ol> <p>In determining whether to grant injunction, court shall consider potential danger posed to petitioner &amp; pattern of abusive conduct of respondent but may not base decision solely on length of time since last domestic abuse or length of time since relationship ended. <a href="#">§813.12(4)(aj).</a></p> <p>Judge or circuit court commissioner may not dismiss or deny granting injunction because of existence of pending action or of any court order that bars contact between parties, nor due to necessity of verifying terms of an existing court order. <a href="#">§813.12(4)(aj).</a></p>	<ol style="list-style-type: none"> <li>1. Petition has been filed alleging certain elements; <b>and</b></li> <li>2. Petitioner serves petition &amp; notice of time for hearing on respondent <b>or</b> respondent serves notice of time for hearing upon petitioner; <b>and</b></li> <li>3. Court finds reasonable grounds to believe               <ol style="list-style-type: none"> <li>a. respondent has engaged in <b>or</b></li> <li>b. based upon prior conduct of the child victim &amp; respondent may engage in abuse of the child victim. <a href="#">§813.122(5)(a).</a></li> </ol> </li> </ol> <p><b>Note:</b> If the respondent is the parent of the child victim, the judge shall provide reasonable visitation rights, unless the judge finds to do so would endanger the child's physical, mental or emotional health. Visitation may be supervised. <a href="#">§813.122(5)(b).</a></p>	<ol style="list-style-type: none"> <li>1. Petition has been filed alleging certain elements; <b>and</b></li> <li>2. Petitioner serves petition &amp; notice of hearing on respondent or respondent serves notice of time for hearing on petitioner; <b>and</b></li> <li>3. Court finds reasonable cause to believe <b>any of these:</b> <ol style="list-style-type: none"> <li>a. Respondent has interfered with or, based upon prior conduct, may interfere with investigation of elder adult at risk <a href="#">§46.90</a> or adult at risk under <a href="#">§55.043</a> <b>and</b> <ol style="list-style-type: none"> <li>i. interference complained of, if continued, would make it difficult to determine if abuse, financial exploitation, neglect, harassment, or stalking of individual at risk or mistreatment of animal is occurring or may recur; <b>and</b></li> <li>ii. the interference complained of, if continued, would make it difficult to determine whether abuse, financial exploitation, neglect, or self-neglect has occurred, is occurring, or may recur.</li> </ol> </li> <li>b. Respondent has interfered with delivery of protective services or protective placement under <a href="#">Ch. 55</a> after offer of protective services, placement has been made and individual at risk or his/her guardian, consented to receipt of the protective services/ placement; or respondent has interfered with delivery of services to elder adult at risk under <a href="#">§46.90(5m).</a></li> <li>c. Respondent has engaged in or threatened to engage in abuse, financial exploitation, neglect, harassment, stalking, or mistreatment of an animal. <a href="#">§813.123(5)(a)3.</a></li> </ol> </li> </ol>	<ol style="list-style-type: none"> <li>1. Petition alleges elements set forth in <a href="#">§813.125(5)(a).</a></li> <li>2. Petitioner serves copy of the TRO &amp; notice of time of hearing on respondent. <b>and</b> <a href="#">§813.125(4)(a)2.</a></li> <li>3. Court finds reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner. <a href="#">§813.125(4)(a)3.</a></li> </ol> <p>The judge or court commissioner may not dismiss or deny granting any injunction because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. <a href="#">§813.125(4)(aj).</a></p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>46. What can the respondent be ordered to do if an injunction is granted?</b>	<ol style="list-style-type: none"> <li>1. Refrain from committing acts of domestic abuse against the petitioner.</li> <li>2. Avoid the petitioner's residence or any other location temporarily occupied by the petitioner or both.</li> <li>3. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact petitioner unless petitioner consents in writing.</li> <li>4. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>5. Allow petitioner or family member or household member of petitioner to retrieve household pet.</li> <li>6. Any combination of these remedies.</li> <li>7. Order any other appropriate remedy not inconsistent with the remedies requested in the petition. <a href="#">§813.12(4)(a)</a></li> <li>8. If the petitioner &amp; respondent are not married, the respondent owns the premises where the petitioner resides &amp; the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates &amp; shall order the respondent to avoid the new residence for the duration of the order. <a href="#">§813.12(4)(am)</a></li> <li>9. Order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers. <a href="#">§813.12(4g)</a>.</li> </ol> <p>The court may only grant the remedies requested. <a href="#">§813.12(4)(aj)</a>.</p> <p>Firearms surrender—mandated. <b>See Question 66</b> for more information.</p>	<ol style="list-style-type: none"> <li>1. Avoid the child victim's residence or any residence temporarily occupied by the child victim or both.</li> <li>2. Avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing <b>and</b> the court agrees that the contact is in the child victim's best interest.</li> <li>3. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>4. Allow petitioner or family member or household member of petitioner to retrieve household pet. <a href="#">§813.122(5)(a)</a>. Order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number or numbers indicated by the petitioner and the financial responsibility associated with the number or numbers, <a href="#">§813.122(5c)</a></li> <li>5. Firearms surrender is mandated</li> </ol> <p>Firearms surrender – mandated. <b>See Question 66</b> for more information.</p>	<ol style="list-style-type: none"> <li>1. Avoid interference with an investigation of the elder adult at risk under <a href="#">§46.90</a> or the adult at risk under <a href="#">§55.043</a>, the delivery of protective services to the individual at risk under <a href="#">§55.05</a> or a protective placement of the individual at risk under <a href="#">§55.06</a>, or the delivery of services to the elder adult at risk under <a href="#">§46.90(5m)</a>.</li> <li>2. Cease engaging in or threatening to engage in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, or stalking of and IAR or the mistreatment of an animal.</li> <li>3. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet &amp; allow the IAR or guardian, GAL, family member, household member of IAR to retrieve household pet.</li> <li>4. Avoid the residence of IAR or any other location temporarily occupied by IAR, or both.</li> <li>5. Avoid contacting /causing any person other than party's attorney or law enforcement to contact IAR.</li> <li>6. Any other appropriate remedy not inconsistent with the remedies requested in the petition. <a href="#">§813.123(5)(ar)</a>.</li> <li>7. Order a wireless telephone service provider to transfer to petitioner the right to continue to use a telephone number or numbers indicated by petitioner and the financial responsibility associated with the number or numbers. <a href="#">§813.123(5c)</a></li> <li>8. Prohibit from possessing a firearm if it is determined by clear and convincing evidence respondent may use a firearm to cause physical harm to another or to endanger public safety. <a href="#">§813.123(5m)(a)</a>.</li> </ol>	<ol style="list-style-type: none"> <li>1. Avoid contacting or causing any person other than a party's attorney or law enforcement officer to contact petitioner without petitioner's written consent.</li> <li>2. Cease or avoid harassment of other person.</li> <li>3. Avoid the petitioner's residence or any premises temporarily occupied by the petitioner or both.</li> <li>4. Refrain from removing, hiding, damaging, harming, mistreating, or disposing of a household pet.</li> <li>5. Allow petitioner/family member or household member of petitioner to retrieve household pet.</li> <li>6. Any combination of these remedies. <a href="#">§813.125(4)(a)</a></li> <li>7. If petitioner &amp; respondent are not married, respondent owns the premises where petitioner resides &amp; petitioner has no legal interest in the premises, the court may order respondent to avoid the premises for a reasonable length of time until petitioner relocates &amp; shall order respondent to avoid the new residence for the duration of the order. <a href="#">§813.125(4)(am)</a>.</li> <li>8. Order a wireless telephone service provider to transfer to petitioner the right to continue to use a telephone number or numbers indicated by petitioner and the financial responsibility associated with the number or numbers. <a href="#">§813.125(4g)</a></li> <li>9. Prohibit from possessing a firearm if it is determined by clear and convincing evidence respondent may use a firearm to cause physical harm to another or to endanger public safety. <a href="#">§813.125(4m)(a)</a>.</li> </ol>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
47. Who can have contact with the petitioner on behalf of the respondent?	Only law enforcement and/or a party's attorney may contact the petitioner for Domestic Abuse, Individual at Risk, and Harassment restraining orders. <a href="#">§813.12(4)(a)</a> , <a href="#">§813.123(5)(ar)4</a> , <a href="#">§813.125(4)(a)</a> .			
	Only a party's attorney may contact the petitioner in Child Abuse restraining orders. <a href="#">§813.122(5)(a)</a>			
48. Are there any orders a court may not make as part of the injunction?	<ol style="list-style-type: none"> <li>The court may not make findings or issue orders under <a href="#">§767.225</a> [orders during pendency of a family action] or <a href="#">§767.41</a> [custody &amp; physical placement]. <a href="#">§813.12(2)(b)</a>.</li> <li>The court may not modify an order restraining the respondent based solely on the request of the respondent. <a href="#">§813.12(4)(b)</a>.</li> </ol>	<p><a href="#">§813.122</a> does not list any prohibited orders. <b>It does, however, list many orders the court may make, including orders about child support, supervised visitation and an order for a guardian ad litem.</b> <a href="#">§813.122(5)(e)</a>, <a href="#">§813.122(5)(b)</a>, and <a href="#">§813.122(3)(b)1m</a>, respectively.</p> <p>The court may not order a person who files a petition to reimburse counsel for the child who is named as a respondent in that petition. <a href="#">§48.23(4)(c)</a></p>	<p><a href="#">§813.123</a> does not list any prohibited orders. <b>It does, however, note what the respondent is prohibited from doing.</b> <a href="#">§813.123(7)</a>.</p>	<p>The court may not order a person who files a petition to reimburse counsel for the child who is named as a respondent in that petition. <a href="#">§48.23(4)(c)</a>.</p>
49. Can the court order a dual injunction?  <i>This information is the same for all types of restraining orders.</i>	<p>No. The court may enter an injunction only against the respondent named in the petition. <a href="#">§813.12(4)(b)</a>, <a href="#">§813.122(5)(c)</a>, <a href="#">§813.123(5)(b)</a>, <a href="#">§813.125(4)(b)</a>.</p> <p><a href="#">Laluzerne v. Stange, 200 Wis. 2d 179 (Ct. App. 1996)</a>, states that <a href="#">§813.12(4)(b)</a> precludes the issuing of a mutual domestic abuse injunction.</p>			
50. Can the court order an injunction against the petitioner?	<p>No. The court may enter an injunction only against the respondent named in the petition.</p> <p>No injunction may be issued under the same case number against the person petitioning for the injunction. <a href="#">§813.12(4)(b)</a>.</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. <a href="#">§813.122(5)(c)</a>.</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. <a href="#">§813.123(5)(b)</a>.</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. <a href="#">§813.125(4)(b)</a>.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
51. Does the law allow a service representative to be present at an injunction hearing?	Yes. An adult petitioner has the right to select a service representative. The service representative has the right to attend, with the complainant, hearings, depositions and court proceedings, whether criminal or civil, and all interviews and meetings related to those hearings, depositions and court proceedings. See <a href="#">§895.45(2)</a> .	Yes. The statute specifically states service representatives are allowed at hearings. See <a href="#">§813.122(3)(bp)</a> .	Yes. A petitioner has the right to select a service representative to attend the hearing if the crime alleged in the petition meets the requirements of the statute. See <a href="#">§895.45(2)</a> . <a href="https://docs.legis.wisconsin.gov/statutes/statutes/813/123/3/c/1">https://docs.legis.wisconsin.gov/statutes/statutes/813/123/3/c/1</a>	Yes. A petitioner who is an <b>adult</b> complainant has the right to select a service representative to attend the hearing if the crime alleged in the petition meets the requirements of the statute. See <a href="#">§895.45(2)</a> .  A victim service representative under <a href="#">§895.45</a> only applies to adult abusive complainants; thus, it does not apply to a harassment injunction hearing involving a minor victim.
52. Can anyone be excluded from an injunction hearing?	No. A victim has the right to select a service representative to accompany him/her, sit adjacent, and confer orally and in writing. See <a href="#">§895.45(2)</a> .  <b>See Question 51.</b>	Yes. All persons, other than the parties, their attorneys, witnesses, child victim advocates, a victim service representative under <a href="#">§895.45</a> , court personnel and any guardian ad litem, shall be excluded from any hearing. <a href="#">§813.122(3)(bp)</a> .  <b>See Question 51.</b>	Yes. The court or circuit court commissioner may order that all persons, other than the individual at risk, the parties, their attorneys, a representative of the adult-at-risk agency or elder-adult-at-risk agency, witnesses, court personnel, and any guardian or any guardian ad litem, be excluded from any hearing. <a href="#">§813.123(3)(c)1</a> .	<b>Yes</b> and <b>No</b> . <b>Yes</b> for minor victims: Nothing in <a href="#">§813.125</a> addresses whether or not a child advocate can be present in civil court.  In Juvenile Court, <a href="#">§48.299</a> states that the court has the right to keep the public out of all hearings. Thus, when a case is filed in juvenile court, a court mayor may not allow an advocate to be present.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>53. Does WI's Victim Advocate Accompaniment Law apply to TROs and injunctions?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>No. Wisconsin's Victim Advocate Accompaniment Law gives survivors of sexual assault, human trafficking, and child sexual abuse the right to be accompanied by a sexual assault victim advocate at a hospital that performs emergency services as a result of the alleged violation <b>throughout the criminal justice process</b>, which does not include civil TROs and injunctions under <a href="#">Chapter 813</a>.</p> <p><a href="#">§50.378(2)</a>  <a href="#">WI Legislative Council Act Memo 2015 WI Act 351: Right to Accompaniment by a Victim Advocate and the Victim Advocate Privilege</a></p>			
<p><b>54. May the court extend a TRO and not rule on the injunction?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>No. A judge or court commissioner may not extend the TRO in lieu of ruling on the issuance of an injunction.  <a href="#">§813.12(3)(c)</a>, <a href="#">§813.122(4)(c)</a>, <a href="#">§813.123(4)(c)</a>, <a href="#">§813.125(3)(c)</a>.</p>			
<p><b>55. If the petitioner files a domestic abuse injunction, can the court allow the petitioner to enter a stipulation to convert the petition to a harassment injunction?</b></p>	<p>If the parties enter a stipulation to convert a petition for TRO or injunction to a harassment TRO or injunction, the court may not approve unless:</p> <ol style="list-style-type: none"> <li>1. Either/both parties submit an oral request on record explaining the reason for conversion request; <b>and</b></li> <li>2. The court addresses petitioner personally to determine petitioner entered stipulation voluntarily and with understanding of the differences between the orders.  <a href="#">§813.12(5g)</a></li> </ol>	<p><a href="#">§813.122</a> does not address this issue.</p>	<p><a href="#">§813.123</a> does not address this issue.</p>	<p><a href="#">§813.125</a> does not address this issue.</p>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>56. After the injunction is issued, is it necessary to serve the injunction on the respondent?</b>	Yes. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, <b>injunction</b> , or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service. <a href="#">§813.12(6)(ag)1.</a> <b>(emphasis added)</b>	Yes. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, <b>injunction</b> , or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service. <a href="#">§813.122(9)(a)1.</a> <b>(emphasis added)</b>	Yes. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, <b>injunction</b> , or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service. <a href="#">§813.123(8)(a)1.</a> <b>(emphasis added)</b>	Yes. The clerk of the circuit court shall forward to the sheriff any temporary restraining order, <b>injunction</b> , or other document or notice that must be served on the respondent under this section and the sheriff shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.. <a href="#">§813.125(5g)(cm)1.</a> <b>(emphasis added)</b>
<b>57. Can the injunction be enforced if it hasn't been served?</b> <b>OR</b> <b>What is constructive knowledge?</b>  <i>This information is the same for all types of restraining orders</i>	A respondent who fails to attend an injunction hearing but has been served with a copy of the Temporary Restraining Order (TRO) petition and notice of the injunction hearing “has constructive knowledge of the existence of the injunction and shall be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.” Constructive Knowledge is the legal concept that someone knew or should have known something.  <a href="#">§§813.12(7)(c), 813.122(10)(c), 813.123(9)(c) &amp; 813.125(6)(c).</a>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<b>58. Can a court extend an injunction after it is granted?</b>	<p>Yes.</p> <ol style="list-style-type: none"> <li>When an injunction granted for less than 4 years expires, the court <b>shall</b> extend the injunction if the petitioner states that an extension is necessary to protect him or her. The extension shall remain in effect until four years after the date the court first entered the injunction. <a href="#">§813.12(4)(c)2.</a></li> </ol> <p>An expired injunction can be extended if it was granted for less than 4 years. <a href="#">Switzer v. Switzer, 2006 WI App 10.</a></p> <ol style="list-style-type: none"> <li>Petitioner may request up to a 10-year extension from the date the court first entered the injunction if the court finds by a preponderance of the evidence stated on the record that there is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a>, 2nd degree intentional homicide under <a href="#">§940.05</a>, or commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the petitioner.</li> </ol> <p><a href="#">§813.12(4)(d)</a></p> <p><b>See Question 44.</b></p>	<p>Yes.</p> <ol style="list-style-type: none"> <li>When injunction is in effect for less than six months expires, court <b>shall</b> extend injunction if petitioner states extension is necessary to protect child victim. Extension shall remain in effect until 6 months after date on which court first entered injunction, or until child attains 18 years of age, whichever occurs first.</li> <li>If petitioner states injunction is necessary to protect child victim, court may extend an injunction for not more than 2 years or until child attains 18 years of age, whichever occurs first.</li> <li>Petitioner may request up to a 5-year extension from the date the court first entered the injunction if the court finds by a preponderance of the evidence stated on the record that there is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a> or 2nd degree intentional homicide under <a href="#">§940.05</a>, or commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the child victim.</li> </ol> <p><a href="#">§813.122(5)(dm)1.</a></p> <p><b>See Question 44.</b></p>	<p>Yes.</p> <ol style="list-style-type: none"> <li>When an injunction is in effect for less than six months expires, the court <b>shall</b> extend the injunction if the petitioner states that an extension is necessary to protect the individual at risk. This extension shall remain in effect until 6 months after the date on which the court first entered the injunction. <a href="#">§813.123(5)(c)2.</a></li> <li>If the petitioner states an extension is necessary to protect the individual at risk, the court may extend the injunction for not more than 2 years.</li> <li>Petitioner may request up to a 10-year extension from the date the court first entered the injunction if the court finds by a preponderance of the evidence stated on the record that there is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a>, 2nd degree intentional homicide under <a href="#">§940.05</a>, or commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the person at risk.</li> </ol> <p><a href="#">§813.123(5)(d)1.</a></p> <p><b>See Question 44.</b></p>	<p>Yes.</p> <p>Upon granting an extension of an injunction, the court may order the injunction be in effect for not more than 10 years from the date the court first entered the injunction if:</p> <ol style="list-style-type: none"> <li>The court finds by a preponderance of the evidence stated on the record that there is a substantial risk the respondent may commit 1st degree intentional homicide under <a href="#">§940.01</a> or 2nd degree intentional homicide under <a href="#">§940.05</a>. OR</li> <li>The court finds by a preponderance of the evidence stated on the record that there is a substantial risk the respondent may commit sexual assault under <a href="#">§940.225(1), (2), or (3)</a> or under <a href="#">§948.02(1) or (2)</a> against the petitioner.</li> </ol> <p><a href="#">§813.125(4)(d).</a></p> <p><b>See Question 44.</b></p>
<b>59. Must the court give notice before it extends an injunction?</b>	<p>No. Notice need not be given to the respondent before extending a 4-year injunction. The clerk of courts shall notify the respondent after the court extends an injunction. <a href="#">§813.12(4)(c)4.</a></p> <p><a href="#">Switzer v. Switzer, 2006 WI App 10, 709 N.W.2d 871.</a></p> <p><a href="#">State v. Jankowski, 173 Wis. 2d 522, 496 N.W.2d 215 (1992).</a></p>	<p>No. Notice need not be given to the respondent before extending a 6-month or 2-year injunction. The clerk of courts shall notify the respondent after the court extends an injunction.</p> <p><a href="#">§813.122(5)(d)4.</a></p>	<p>No. Notice need not be given to the respondent before extending a 6-month or 2-year injunction. The clerk of courts shall notify the respondent after the court extends an injunction.</p> <p><a href="#">§813.123(5)(c)4.</a></p>	<p><a href="#">§813.125(4)</a> does not address this issue. Although an extension can be requested in some situations, the law does not specify who is to provide notice to the respondent as to the extension.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>60. When the 4-year injunction expires, can a petitioner file for a new one against the same respondent?</b></p>	<p>Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show that there are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the petitioner and the respondent may engage, in domestic abuse of the petitioner.  <a href="#">§813.12(3)(a).</a>  <a href="#">§813.12(4)(d)2.</a></p>	<p>Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show that there are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the child victim and the respondent may engage in, abuse of the child victim.  <a href="#">§813.122(4)(a).</a>  <a href="#">§813.122(5)(dm)2.</a></p>	<p>Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show there are reasonable grounds to believe that:</p> <ol style="list-style-type: none"> <li>1. Respondent has interfered with, or based on prior conduct of the respondent may interfere with, an investigation of the individual at risk, the delivery of protective services under <a href="#">§55.05</a> or a protective placement under <a href="#">§55.06</a>; <b>or</b></li> <li>2. Respondent interfered with delivery of services to an elder adult at risk under <a href="#">§46.90(5m)</a>; <b>and</b> that the interference complained of, if continued, would make it difficult to determine whether abuse will continue; <b>or</b></li> <li>3. Respondent engaged in physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, stalking, or mistreatment of an animal.  <a href="#">§813.123(4)(a),1,2a&amp;b.</a></li> </ol>	<p>Yes. Any party who is eligible for a TRO or injunction may file a petition. The party will need to meet the legal requirements and show that there are reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate petitioner.  <a href="#">§813.125(4)(a).</a>  <a href="#">§813.125(4)(d)2.</a></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>61. After an injunction expires, does a new incident of abuse have to occur for the petitioner to apply for a new restraining order against the same respondent?</b></p>	<p>No. A new domestic abuse order may succeed without new incidents, if petition alleges act of domestic abuse (see <b>Question 4</b>) sufficient for court to find reasonable grounds respondent has engaged in or may engage in domestic abuse of petitioner and petitioner is in imminent danger of harm (for TRO). <a href="#">§813.12(4)</a>.</p> <p>Court cannot base decision of whether to issue injunction solely on length of time since last incident occurred or since relationship ended. <a href="#">§813.12(4)(aj)</a>.</p> <p>A domestic abuse injunction may also be issued based on one incident of abuse. A pattern of abuse is considered but is not required to find that respondent engaged in or may engage in domestic abuse of petitioner. <a href="#">§813.12(4)(aj)</a> <a href="#">§813.12(5)(a)(3)</a>.</p> <p>Issue preclusion did not apply in a domestic abuse case where a petitioner received an injunction, vacated it, and applied for a new injunction based on the same facts. The court ruled that the first petition demonstrated both the respondent's intent to cause harm and the petitioner's perception of the threat of harm. The new petition "certainly did not wipe out the historical facts that underlay her [first] petition." <a href="#">Wittig v. Hoffart, 2005 WI App 198</a>. Issue preclusion did not apply.</p>	<p>No. A new child abuse order may succeed without new incidents, if the petition alleges an act of child abuse (see <b>Question 4</b>), sufficient for the judge to find reasonable grounds that the respondent has engaged in or may engage in abuse of the child victim. <a href="#">§813.122(5)</a>.</p> <p>Because the interests of children are involved, as a matter of public policy, issue preclusion may not be applied as strictly as in other cases.</p> <p><a href="#">Brown County DHS v. Terrance M., 2005 WI App 57</a></p>	<p>No. A new individuals at risk order may succeed without new incidents, if petition alleges a prohibited act (see <b>Question 4</b>), sufficient for judge to find reasonable cause to believe that:</p> <ol style="list-style-type: none"> <li>1. Respondent has interfered <b>or</b>, based on prior conduct, may interfere with investigation of individual at risk, the delivery of protected services to or a protective placement of the IAR, or delivery of services to an elder IAR and continued interference would make it difficult to determine if (see <b>Question 4</b>) abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal is occurring or may recur;</li> <li>2. Respondent has engaged in or threatened to engage in abuse, financial exploitation, neglect, harassment, or stalking (see <b>Question 4</b>) of individual at risk or the mistreatment of an animal. <a href="#">§813.123(5)</a>.</li> </ol>	<p>No. A new harassment order may succeed without new incidents, if the petition alleges:</p> <ol style="list-style-type: none"> <li>1. An act of physical violence or threats of same violence (see <b>Question 4</b>)</li> <li>2. Child abuse (as defined in (see <b>Question 4</b>);</li> <li>3. Sexual intercourse or sexual contact (under <a href="#">§940.225</a>); or</li> <li>4. Stalking (under</li> <li>5. <a href="#">§940.32</a>), if past acts indicate intent to continue, and petitioner demonstrates a reasonable person would continue to suffer serious emotional distress or fear of bodily injury.</li> </ol> <p>And petitioner demonstrates continued perceived threats for the above.</p> <ol style="list-style-type: none"> <li>6. A course of conduct to harass/intimidate, serving no legitimate purpose, and the petitioner demonstrates continued intimidation <a href="#">§813.125(4)</a>.</li> </ol>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>62. What is issue preclusion (collateral estoppel)?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p><b>Issue preclusion and claim preclusion are separate doctrines.</b> Although some states view issue preclusion and claim preclusion as interchangeable, Wisconsin views the two concepts as separate doctrines. <a href="#">Kruckenbergh v. Harvey, 2005 WI 43, 279 Wis. 2d 520, 694 N.W.2d 879</a>. Issue preclusion deals with whether you can re-litigate an issue litigated in an earlier case. Claim preclusion deals with whether you can file a second suit based on the same claim filed in an earlier lawsuit.</p> <p><b>Issue Preclusion</b>, also known as collateral estoppel, is a doctrine designed to limit the relitigating issues contested in a previous action between the same or different parties. <a href="#">Michelle T. v. Crozier, 173 Wis. 2d 681 (1993)</a>. If the court decides that the issue is precluded because it has already been decided, the court <b>may</b> require new information or a new incident of abuse/harassment before a new injunction is granted. Issue preclusion did not apply in a domestic abuse injunction case where a petitioner received an injunction, she later vacated it, and then applied for a new injunction based on the same facts. The court ruled that the first petition demonstrated both the respondent’s intent to cause harm and the petitioner’s perception of the threat of harm. The request for vacatur “certainly did not wipe out the historical facts that underlay her [first] petition...” <a href="#">Wittig v. Hoffart, 2005 WI App 198</a>.</p> <p>In order for a court to find the issue precluded, the court should apply a 2- part test to determine whether issue preclusion can legally be applied and, if so, whether the application of issue preclusion would be fundamentally fair. <a href="#">Estate of Rille v. Physicians Ins. Co., 2007 WI 36</a>.</p> <p>Issue preclusion can only be applied if the matter has been “actually litigated” (and conclusively decided) in a prior court proceeding. A circuit court then has discretion to decide whether applying issue preclusion would rationally conform to principles of fundamental fairness, considering five specific factors enunciated in <a href="#">Michelle T. v. Crozier, 173 Wis. 2d 681 (1993)</a>. Determination of the factors is generally within the court’s discretion. These include:</p> <ol style="list-style-type: none"> <li>1. could the party against whom preclusion is sought, as a matter of law, have obtained review of the judgment;</li> <li>2. is the question one of law that involves two distinct claims or intervening contextual shifts in the law;</li> <li>3. do significant differences in the quality or extensiveness of proceedings between the two courts warrant relitigation of the issue;</li> <li>4. have the burdens of persuasion shifted such that the party seeking preclusion had a lower burden of persuasion in the first trial than in the second; or</li> <li>5. are matters of public policy and individual circumstances involved that would render the application of collateral estoppel to be fundamentally unfair, including inadequate opportunity or incentive to obtain a full and fair adjudication in the initial action</li> </ol> <p>If a court has <i>denied</i> a petitioner’s request for an injunction at the original hearing, and petitioner attempts to seek another restraining order based on those same facts at a second injunction hearing, with no additional incidents, then it may be challenging for the petitioner to be successful. The courts must use the 5 factors above in determining if applying issue preclusion would rationally conform to the principles of fundamental fairness.</p> <p>Reminder: a petitioner can seek de novo review of a court commissioner’s decision. <b>See Question 88.</b></p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>63. What is claim preclusion (res judicata)?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p><b>Claim preclusion</b>, also known as res judicata, is a doctrine designed to relieve parties of the cost and burden of multiple lawsuits, conserve judicial resources, prevent inconsistent decisions, encourage reliance on adjudication, and promote mutual recognition between the state and federal courts. <a href="#">Allen v. McCurry, 449 U.S. 90 (1980)</a>. Claim preclusion deals with whether you can file a second suit based on the same claim filed in an earlier lawsuit.</p> <p>Claim preclusion includes 3 elements:</p> <ol style="list-style-type: none"> <li>1. an identity between the parties or their privies in the prior and present suits (privity exists when there are the same parties or there is a substantial identity of interest between a party and a non-party such that the non-party's interest are protected by the party in the litigation.);</li> <li>2. an identity between the causes of action in the two suits (the same evidence used in both suits); and</li> <li>3. a final judgment of the original court. <a href="#">Wickenhauser v. Lehtinen, 2007 WI 82, 302 Wis.2d 41, 734 N.W.2d 855</a>.</li> </ol> <p>Fundamental fairness can be applied in issue preclusion; however, Wisconsin case law explicitly states that fundamental fairness cannot be applied to claim preclusion. <a href="#">Kruckenberg v. Harvey, 2005 WI 43, 279 Wis. 2d 520, 694 N.W.2d 879</a>.</p> <p>"Nevertheless, narrow, clear, special circumstance exceptions to claim preclusion have been recognized; they are viewed as less likely to undermine certainty in the doctrine of claim preclusion than are case-by- case determinations based on fairness." <a href="#">Kruckenberg v. Harvey, 2005 WI 43, 279 Wis. 2d 520, 694 N.W.2d 879</a>.</p> <p>In <a href="#">Kruckenberg</a>, the Wisconsin Supreme Court looked to the Restatement of Judgments (Second) §26(1) for the articulation of "special circumstances" that justified not applying the doctrine of claim preclusion in lawsuits related to property boundaries. Although Wisconsin courts have not established the relationship between claim preclusion and restraining order petitions based on incidents included in a previous petition, a special circumstances exception in the Restatement of Judgments (or other judicially created exceptions) might apply to these cases. This matter has not been adjudicated in Wisconsin case law.</p> <p>If a court has <i>denied</i> a petitioner's request for an injunction at the original hearing, and petitioner attempts to seek another restraining order based on those same facts at a second injunction hearing, with no additional incidents, then it may be challenging for the petitioner to be successful. The courts must use the 5 factors above in determining if applying issue preclusion would rationally conform to the principles of fundamental fairness.</p>			

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>64. Will a new TRO/ injunction be issue precluded or claim precluded if there are no new incidents of abuse?</b>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable, it has discretion to grant the petition based on fundamental fairness. The statute “expresses the legislature’s intent to cloak victims of domestic abuse with substantial protection.”</p> <p><a href="#">Switzer v. Switzer, 2006 WI App. 10.</a></p> <p>As a matter of public policy, a court must only find a rational reason why denying the petition would expose the petitioner to potential harm to pass the fundamental fairness test.</p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable as a matter of law, it has discretion to issue the injunction based on fundamental fairness. Because the interests of children are involved, as a matter of public policy, issue preclusion may not be applied as strictly as in other cases.</p> <p><a href="#">Brown County DHS v. Terrance M., 2005 WI App 57.</a></p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable as a matter of law, it has the discretion to issue the injunction based on fundamental fairness. For example, individuals at risk injunctions, as a matter of public policy, protect people who are at higher risk of experiencing abuse, neglect, or financial exploitation. Therefore, the court could find a rational reason why denying the injunction would be unfair, based on individual circumstances that demonstrate potential harm to the petitioner if a new injunction is denied because of issue preclusion.</p>	<p>First, the court must determine whether issue preclusion applies to the specific case. If the court finds that issue preclusion is applicable as a matter of law, it has the discretion to issue the injunction based on fundamental fairness. As a matter of public policy, the court could find a rational reason why it would be fundamentally unfair to deny the injunction based on the individual circumstances of the case.</p>
<b>65. Does the law mandate a law enforcement officer to make an arrest for violation of an injunction?</b>  <i>This information is the same for all types of restraining orders</i>	<p>Yes, if:</p> <ol style="list-style-type: none"> <li>1. Presented with a court order or law enforcement officer verifies court order exists, and</li> <li>2. Officer has probable cause to believe person has violated court order.</li> </ol> <p><a href="#">§813.12(7)(am), §813.122(10)(am), §813.123(9)(am), §815.125(6)(am).</a></p>			

## V. FIREARMS AND SURRENDER

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
66. Is there an automatic firearm surrender law against the respondent?	<p>Yes. If the injunction is granted, the respondent must surrender any firearms he/she owns or has in his/her possession. <a href="#">§813.12(4m)(a)</a>.</p> <p>When the respondent is served with a petition, the respondent should also be informed of the procedures for surrendering a firearm under <a href="#">§813.1285</a> and be given a firearm possession form with instructions for completing and returning the form. <a href="#">§813.12(2)(c)</a>.</p>	<p>Yes, if the injunction is granted, the respondent must surrender any firearms he/she owns or has in his/her possession. <a href="#">§813.122(5m)(a)</a>.</p> <p>When the respondent is served with a petition, the respondent should also be informed of the procedures for surrendering a firearm under <a href="#">§813.1285</a> and be given a firearm possession form with instructions for completing and returning the form. <a href="#">§813.122(2)(b)</a>.</p>	<p>No. It is not automatic.</p> <p>However, if the court issues an injunction and determines – based on clear &amp; convincing evidence – that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the court <b>may</b> prohibit the respondent from possessing a firearm. <a href="#">§813.123(5m)(a)</a>.</p> <p>When the respondent is served with the petition &amp; notice of time for hearing, that notice shall inform the respondent that if the court issues an injunction, the court may also order the respondent not to possess firearms while the injunction is in effect and an explanation of and the procedures and circumstances of surrounding notice and process for firearm surrender, under <a href="#">§813.1285</a> and be given a firearm possession form with instructions for completing and returning the form.</p> <p><a href="#">§813.123(5)(a)2</a>.</p>	<p>No. It is not automatic.</p> <p>However, if the court issues an injunction and determines – based on clear &amp; convincing evidence – that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the court <b>may</b> prohibit the respondent from possessing a firearm. <a href="#">§813.125(4m)(a)</a>.</p> <p>When the respondent is served with the petition &amp; notice of time for hearing, that notice shall inform the respondent that if the court issues an injunction, the court may also order the respondent not to possess firearms while the injunction is in effect and an explanation of and the procedures and circumstances of surrounding notice and process for firearm surrender, under <a href="#">§813.1285</a> and be given a firearm possession form with instructions for completing and returning the form.</p> <p><a href="#">§813.125(4m)(c)</a></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>67. Does the firearm surrender law apply when a TRO is issued?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>No. It only applies when an injunction is granted.  <a href="#">§813.12(4m)(a)</a>, <a href="#">§813.122(5m)(a)</a>, <a href="#">§813.123(5m)(a)</a>, <a href="#">§813.125(4m)(a)</a>.</p>			
<p>68. Are there any exceptions to who must surrender firearms?</p>	<p>Yes. If the respondent is a peace officer, an injunction may <b>not</b> require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <a href="#">§813.12(4m)(ag)</a>.  <b>See also Question 69.</b></p>	<p>Yes. If respondent is a peace officer, an injunction may <b>not</b> require respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <a href="#">§813.122(5m)(ag)</a>.  <b>See also Question 69.</b></p>	<p>Yes. If respondent is a peace officer, an order may <b>not</b> require respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <a href="#">§813.123(5m)(d)</a>.  <b>See also Question 69.</b></p>	<p>Yes. If respondent is a peace officer, an order may <b>not</b> require respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <a href="#">§813.125(4m)(cg)</a>.  <b>See also Question 69.</b></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<b>69. Can anyone else possess a firearm after the court has ordered firearm surrender?</b>	<p>Yes.</p> <ol style="list-style-type: none"> <li>1. Member of the U.S. Armed Forces, or National Guard and in possession of a firearm while in the line of duty. <a href="#">§941.29(10)(b)</a>. See also <a href="#">§40.02(57m)</a>.</li> <li>2. Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. <a href="#">§941.29(6)</a>.</li> </ol>	<p>Yes</p> <ol style="list-style-type: none"> <li>1. Member of the U.S. Armed Forces, or National Guard and in possession of a firearm while in the line of duty. <a href="#">§941.29(10)(b)</a>. See also <a href="#">§40.02(57m)</a>.</li> <li>2. Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. <a href="#">§941.29(6)</a>.</li> </ol>	<p>Yes.</p> <p>Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. <a href="#">§941.29(6)</a>.</p>	<p>Yes.</p> <p>Correctional officer and employed prior to May 1, 1982 and required to possess a firearm as a condition of employment. This exemption applies if the officer is eligible to possess a firearm under any federal law and applies while the officer is acting in an official capacity. <a href="#">§941.29(6)</a>.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>70. What is the procedure for surrendering firearms when ordered by the injunction if the respondent is present at the injunction hearing?</b></p> <p><i>This information is true for all types of restraining orders.</i></p>	<p>If the <b>respondent is present at the injunction hearing</b>, the court shall stay the injunction for a period not to exceed 48 hours and shall extend the temporary restraining order for 48 hours for purposes of firearm surrender. Additionally, the respondent shall provide the court a completed firearm possession form, and the court shall verify the information on the form and make an inquiry on the record as to the contents of the form.</p> <ol style="list-style-type: none"> <li>1. If the firearm possession form indicates the respondent does not possess a firearm and the court, after an inquiry, is satisfied the respondent does not possess a firearm, the court files the firearm possession form, lifts the stay of the injunction, and dismisses the extended TRO.</li> <li>2. If the firearms possession form indicates that the respondent possesses a firearms, and the respondent has not surrendered his or her firearms court shall continue to stay the injunction no longer than 48 hours, issue a surrender and extend order, and schedule a hearing to surrender firearms within one week of the injunction hearing.</li> <li>3. The court may schedule a hearing to surrender firearms for any reason relevant to the surrender of firearms.</li> </ol> <p><a href="#">§813.1285(2)(a)</a>, <a href="#">§813.1285(2)(c)2</a>, and <a href="#">§813.1285(2)(c)4</a>.</p>			
<p><b>71. What is the procedure for surrendering firearms when ordered by the injunction if the respondent is NOT present at the injunction hearing?</b></p> <p><i>This information is true for all types of restraining orders.</i></p>	<p>If the <b>respondent is not present at the injunction hearing</b>, the court shall provide the petitioner with the opportunity to inform the court orally or in writing:</p> <ol style="list-style-type: none"> <li>1. whether the petitioner believes the respondent owns a firearm;</li> <li>2. If so, the court shall request the petitioner to inform the court how many firearms the respondent possesses, the make and model of any firearm, and the location of any firearm.</li> </ol> <p>If petitioner indicates that the respondent possesses a firearm or if the court is not satisfied that the respondent does not possess a firearm, the court shall schedule a hearing to surrender firearms to occur within one week of the injunction hearing. After taking testimony from the petitioner, the court shall schedule a hearing to surrender firearms to occur within one week of the injunction hearing. The court shall do one of the following:</p> <ol style="list-style-type: none"> <li>1. Continue the stay of the injunction and issue a surrender and extend order.</li> <li>2. Lift the stay of the injunction.</li> </ol> <p>If the firearm possession form submitted to the court indicates the respondent does not possess a firearm, and the court, after an inquiry, is satisfied the respondent does not possess a firearms, the court shall file the firearm possession form, lift the stay of injunction, and dismiss the TRO order extended under <a href="#">§813.1285(2)(a)</a>.</p> <p>The court may schedule a hearing to surrender firearms for any reason relevant to the surrender of firearms. <a href="#">§813.1285(2)(b)</a>, <a href="#">§813.1285(2)(c)1</a>, <a href="#">§813.1285(2)(c)3</a>, <a href="#">§813.1285(2)(c)4</a>.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>72. What happens if the respondent does not attend the hearing to surrender firearms?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>If the respondent does not attend the hearing to surrender firearms, the court shall issue an arrest warrant for the respondent.</p> <p><a href="#">§813.1285(4)(a)</a></p>			
<p><b>73. What happens at the hearing to surrender firearms?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Unless the court dismisses the hearing to surrender firearms, a respondent for whom a hearing is scheduled must attend. At the hearing, the court shall:</p> <ol style="list-style-type: none"> <li>1. stay the injunction for a period not to exceed 48 hours;</li> <li>2. extend the TRO for 48 hours;</li> <li>3. ensure the respondent completed a firearm possession form;</li> <li>4. verify the information on the form;</li> <li>5. make an inquiry on the record as to contents of firearm possession form and shall do one of the following: <ol style="list-style-type: none"> <li>a. If the respondent wants to surrender firearms to a person (3<sup>rd</sup> party) who is not the sheriff, the 3<sup>rd</sup> party must appear at the hearing to surrender firearms. At the firearm surrender hearing, the court must: <ol style="list-style-type: none"> <li>i. consider all relevant factors and input from the petitioner;</li> <li>ii. approve the surrender and inform the 3<sup>rd</sup> party of the requirements and penalties under s. <a href="#">941.2905</a>; and</li> <li>iii. order the respondent to surrender firearms in one of the following ways: <ol style="list-style-type: none"> <li>1. Surrender to a 3<sup>rd</sup> party: <ol style="list-style-type: none"> <li>a. The 3<sup>rd</sup> party testifies under oath that they received the firearms listed on the respondent's firearm possession form and the Court determines that the 3<sup>rd</sup> party is not prohibited from possession a firearm; OR;</li> <li>b. Surrender to sheriff, who shall transfer firearms to 3<sup>rd</sup> party after determining that 3<sup>rd</sup> party is not prohibited from possessing a firearm.</li> </ol> </li> <li>2. If the respondent claims to have surrendered firearms to the sheriff, verify the respondent has surrendered all such firearms, lift the stay of the injunction, and dismiss the TRO.</li> </ol> </li> <li>b. Or Order the respondent to surrender any firearm that the court finds the respondent owns or possesses to a sheriff in accordance with <a href="#">§ 813.1285(6)</a> If the respondent has not provided to the court, within 48 hours of the hearing to surrender firearms, a receipt as specified in sub. <a href="#">§ 813.1285(6)(b)</a> that shows surrender of all of the firearms that were subject to the order, the court shall presume the respondent is violating the order and the injunction and may do any of the following: <ol style="list-style-type: none"> <li>o Notify the sheriff of the violation for investigation and appropriate action.</li> <li>o Schedule another hearing to surrender firearms.</li> <li>o Issue a warrant to the sheriff ordering that the respondent be brought before the court to show cause why the respondent should not be held in contempt.</li> </ol> </li> </ol> </li> <li>6. If the court orders the respondent to surrender the firearms to the sheriff (either directly or through the sheriff to give to the 3<sup>rd</sup> party) the court shall issue a surrender and extend order.</li> <li>7. If the court orders the respondent to surrender firearms to the 3<sup>rd</sup> party (and not the sheriff) the court shall lift any stay of the injunction and dismiss the TRO</li> <li>8. If the firearm possession form indicates that the respondent does not possess a firearm, and the court, after an inquiry, is satisfied that the respondent does not possess a firearm, the court shall file the firearm possession form, lift any stay of the injunction, and dismiss the TRO</li> </ol> <p><a href="#">§§813.1285(4) (b)1, 2, 3, 4.</a></p> </li></ol>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>74. Will the court ever dismiss the hearing to surrender firearms?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Yes. The court shall dismiss the hearing if the respondent if the respondent surrenders his or her firearms in one of the following manners:</p> <ol style="list-style-type: none"> <li>1. Surrenders their firearms to another person (3<sup>rd</sup> party) and all the following apply: <ol style="list-style-type: none"> <li>a. The respondent and the 3<sup>rd</sup> party appear at the initial injunction hearing.</li> <li>b. At the injunction hearing, the 3<sup>rd</sup> party testifies under oath they received the firearms listed on firearms possession form.</li> <li>c. At the injunction hearing, the court determines the 3<sup>rd</sup> party is not prohibited from possessing firearms.</li> <li>d. The court informs the 3<sup>rd</sup> party of the requirements and penalties under <a href="#">§941.2905</a>.</li> <li>e. The court, after considering all relevant factors and any input from petitioner, approves the surrender of the firearms. OR</li> </ol> </li> <li>2. The respondent surrenders their firearm to a sheriff no later than 48 hours after the injunction hearing and provides a copy of the receipt to the clerk of courts. OR</li> <li>3. The respondent surrenders firearms to a sheriff no later than 48 hours after the injunction hearing and provides a copy of the receipt to the clerk of courts. If the respondent wants the sheriff to give possession of the firearms to a 3<sup>rd</sup> party, in order to dismiss the hearing to surrender firearms, the following must have occurred: <ol style="list-style-type: none"> <li>a. the 3<sup>rd</sup> party and the respondent appeared in court at the injunction hearing,</li> <li>b. the court informed the person to whom the firearm is surrendered of the requirements and penalties under <a href="#">§941.2905</a>.</li> <li>c. The court, after considering all relevant factors and any input from the petitioner, approves the surrender of the firearm.</li> <li>d. The sheriff determines that the 3<sup>rd</sup> party is not prohibited from possessing a firearm.</li> </ol> </li> </ol> <p><a href="#">§§813.1285(3) (a)1, 2, 3.</a></p>			
<p><b>75. What happens if the respondent does not provide a receipt of their firearm surrender within 48 hours of the firearm hearing?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>If the respondent does not provide the court, within 48 hours of the firearm hearing, a receipt that shows the surrender of all firearms subject to the order, the court shall presume the respondent is violating the order and the injunction and <b>may do any of the following:</b></p> <ol style="list-style-type: none"> <li>1. Notify the sheriff of the violation for investigation and appropriate action.</li> <li>2. Schedule another hearing to surrender firearms.</li> <li>3. Issue a warrant to the sheriff ordering the respondent be brought before the court to show why the respondent should not be held in contempt.</li> </ol> <p><a href="#">§813.1285(4)(b)2.</a></p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
76. Are there any third parties who may not possess a firearm?	<p>Yes. If a third party is:</p> <ol style="list-style-type: none"> <li>1. A minor (with some exceptions). <a href="#">§948.60</a>, <a href="#">§948.60(3)</a>, <a href="#">§941.29</a>.</li> <li>2. A person that has been adjudicated delinquent for an act committed on/after 04/21/1994, that if committed by an adult in WI would be a felony <a href="#">§941.29(1m)(bm)</a>.</li> <li>3. A convicted felon <a href="#">§941.29(1m)(a)</a>, <a href="#">§941.29(1m)(b)</a>.</li> <li>4. Adjudged mentally ill <a href="#">§941.29(1m)(c)</a>, <a href="#">§941.29(1m)(d)</a>.</li> <li>5. Subject to domestic abuse injunction under <a href="#">§813.12</a> or child abuse injunction under <a href="#">§813.122</a>, or under tribal injunction as defined in <a href="#">§813.12(1)(3)</a> See <a href="#">§941.29(1m)(f)</a></li> <li>6. Person who is subject to order not to possess firearm due to an IAR or harassment injunction <a href="#">§813.123(5m)</a>; <a href="#">§813.125(4m)</a>. See <a href="#">§941.29(1m)(g)</a></li> <li>7. Ordered not to possess a firearm under other state statutes. See <a href="#">§941.29</a>.</li> <li>8. Ordered not to possess a firearm under federal law.</li> </ol>			

## VI. POLICIES AND PROCEDURES

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
77. What is the process for the return of firearms?  <i>This information is the same for all types of restraining orders.</i>	<p>The firearms may <b>not</b> be returned until:</p> <ol style="list-style-type: none"> <li>1. The respondent completes a petition for the return of firearms,</li> <li>2. A judge or commissioner determines that the injunction has been vacated or has expired and not been extended, AND</li> <li>3. A judge or commissioner finds that the person is not prohibited from possessing a firearm under any state or federal law or by order of any federal or state court. <a href="#">§813.1285(7)(a)</a>.</li> </ol>			
78. Are there any state laws prohibiting the return of firearms?  <i>This information is the same for all types of restraining orders.</i>	<p>Yes. <a href="#">§941.29</a>: A person cannot possess a firearm if he/she has been:</p> <ol style="list-style-type: none"> <li>1. Convicted of a felony in this state. <a href="#">§941.29(1m)(a)</a>.</li> <li>2. Convicted of a crime elsewhere that would be a felony in this state. <a href="#">§941.29(1m)(b)</a>.</li> <li>3. A person that has been adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in Wisconsin would be a felony <a href="#">§941.29(1m)(bm)</a>.</li> <li>4. Found not guilty of a felony in this state by reason of mental disease or defect. <a href="#">§941.29(1m)(c)</a>.</li> <li>5. Found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect, or illness <a href="#">§941.29(1m)(d)</a>.</li> <li>6. Committed for treatment under s. <a href="#">§51.20(13)(a)</a> and ordered not to possess a firearm under <a href="#">§51.20(13)(cv)1</a>. <a href="#">§941.29</a>.</li> <li>7. Ordered not to possess a firearm under s. <a href="#">§51.20(13)(cv)1</a>, or <a href="#">§51.45(13)(i)1.</a>, <a href="#">§54.10(3)(f)1.</a> [guardianship], or <a href="#">§55.12(10)(a)</a> [protective services or placement]. <a href="#">§941.29</a>.</li> <li>8. Person is subject to a domestic abuse or child abuse restraining order</li> <li>9. Person is subject to and ordered not to possess a firearms in a harassment or individual at risk restraining order.</li> <li>10. See <a href="#">§941.29(5)</a>, <a href="#">(6)</a>, <a href="#">(7)</a>, <a href="#">(8)</a>, <a href="#">(9)</a> or <a href="#">(10)</a> for exceptions.</li> </ol> <p>Pardons granted after November 15, 1986 will give recipients the right to receive, possess, or transport in commerce firearms unless the pardon expressly provides otherwise. <a href="#">78 Atty. Gen. 22</a>.</p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>79. Are there any federal laws prohibiting the return of firearms?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Yes. The Gun Control Act (GCA) makes it unlawful for certain categories of persons to ship, transport, receive, or possess firearms. <a href="#">18 USC 922(g)</a>, <a href="#">18 USC 922(n)</a>. Transfers of firearms to any such prohibited persons are also unlawful. <a href="#">18 USC 922(d)</a>.</p> <p>These categories include, but are not limited to, any person:</p> <ol style="list-style-type: none"> <li>Under indictment or information in any court for a crime punishable by imprisonment for a term exceeding one year; convicted of a crime punishable by imprisonment for a term exceeding one year;</li> <li>Who is a fugitive from justice;</li> <li>Who is an unlawful user of or addicted to any controlled substance;</li> <li>Who has been adjudicated as a mental defective or has been committed to any mental institutions;</li> <li>Who is an alien unlawfully or illegally in the United States; or</li> <li>A noncitizen who has been admitted to the US under a non immigrant visa;</li> <li>Who has been discharged from the military under dishonorable conditions;</li> <li>Who has renounced his or her United States citizenship;</li> <li>Who is subject to a court order restraining the person from harassing, stalking, or threatening an intimate partner or child of the intimate partner; or</li> <li>Who has been convicted of a misdemeanor crime of domestic violence (enacted by the Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, effective September 30, 1996). <a href="#">18 USC 922(g) and (n)</a>.</li> <li>Who intends to sell or otherwise dispose of the firearm or ammunition in furtherance of a felony, a federal crime of terrorism, or a drug trafficking offense.</li> <li>Who intends to sell or otherwise dispose of the firearm or ammunition to a person described in any of paragraphs (1) through (10).</li> </ol>			
<p><b>80. Can a respondent ask the court to set up a specific date and time to return home to gather personal items?</b></p>	<p>Yes. The court can grant any remedy not inconsistent with remedies requested in petition. <a href="#">§813.12(4)(a)</a>.</p> <p>In practice, courts may order respondent to work with law enforcement to contact petitioner to set up a time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>	<p><a href="#">§813.122</a> does not address this issue. However, petitioner can ask court to order respondent to work with law enforcement to contact petitioner to set up a time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>	<p>Yes. Court can grant any remedy not inconsistent with remedies requested in petition. <a href="#">§813.123(5)(ar)5</a>.</p> <p>In practice, courts may order respondent to work with law enforcement to contact petitioner to set up time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>	<p><a href="#">§813.125</a> does not address this issue. But the court can grant any combination of the specific remedies provided in the statute. <a href="#">§813.125(4)(a)</a></p> <p>Petitioner can ask court to order respondent to work with law enforcement to contact petitioner to set up a time and date which is convenient for petitioner. Law enforcement may follow their “stand-by” policy, which usually means they will only allow a limited time to gather items.</p>
<p><b>81. Does the law mandate a law enforcement officer to make an arrest for violation of an injunction?</b></p>	<p>Yes, if:</p> <ol style="list-style-type: none"> <li>Presented with a court order or law enforcement officer verifies court order exists, <b>and</b></li> <li>Officer has probable cause to believe person has violated court order. <a href="#">§813.127(am)</a></li> </ol>	<p>Yes, if:</p> <ol style="list-style-type: none"> <li>Presented with court order or law enforcement officer verifies court order exists, <b>and</b></li> <li>Officer has probable cause to believe person has violated court order. <a href="#">§813.122(10)(am)</a>.</li> </ol>	<p>Yes, if:</p> <ol style="list-style-type: none"> <li>Presented with a court order or the law enforcement officer verifies a court order exists, <b>and</b></li> <li>The officer has probable cause to believe person has violated the court order. <a href="#">§813.123(9)(am)</a>.</li> </ol>	<p>Yes, if:</p> <ol style="list-style-type: none"> <li>Presented with a court order or the law enforcement officer verifies a court order exists, <b>and</b></li> <li>The officer has probable cause to believe person has violated the court order. <a href="#">§813.125(6)(am)</a>.</li> </ol>

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>82. Is the injunction violated if the respondent is admitted into petitioner's home or if the petitioner initiates contact with respondent?</b>	No. The injunction is not voided if the petitioner allows or initiates contact with the respondent or by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid. <a href="#">§813.12(4)(c)1.</a>	<a href="#">§813.122</a> does not address this issue.	<a href="#">§813.123</a> does not address this issue.	<a href="#">§813.125</a> does not address this issue.
<b>83. Can an injunction be enforced if other civil or criminal no contact orders exist?</b>	Yes. An injunction is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact. <a href="#">§813.12(6)(d).</a>	<a href="#">§813.122</a> does not address this issue.	<a href="#">§813.123</a> does not address this issue.	Yes. Injunction is enforceable despite any other criminal or civil order restricting or prohibiting contact. <a href="#">§813.125(5g)(d)</a>
<b>84. Who may issue a TRO?</b>	Judge or circuit court commissioner <a href="#">§813.12(3)(a).</a> <a href="#">§757.69(1)(m).</a>	Judge or circuit court commissioner <a href="#">§813.122(4)(a).</a> <a href="#">§757.69(1)(i).</a>  Circuit court commissioner if assigned to juvenile matters in which respondent is a child. <a href="#">§757.69(1)(g)7.</a>	Judge or circuit court commissioner <a href="#">§813.123(4)(a).</a> <a href="#">§757.69(1)(i).</a>	Judge or circuit court commissioner <a href="#">§813.125(3)(a).</a> <a href="#">§757.69(1)(m).</a>  Circuit court commissioner if assigned to juvenile matters in which respondent is a child. <a href="#">§757.69(1)(g)7.</a>
<b>85. Who may issue an injunction?</b>	Judge or circuit court commissioner. <a href="#">§813.12(4)(a).</a> <a href="#">§757.69(1)(m).</a>	Judge. <a href="#">§813.122(5)(a).</a>	Judge or court commissioner. <a href="#">§813.123(5)(a).</a> <a href="#">§813.123(5m)(a)</a>	Judge or circuit court commissioner. <a href="#">§813.125(4)(a).</a> <a href="#">§757.69(1)(m).</a>  Circuit court commissioner if assigned to juvenile matters in which the respondent is a child. <a href="#">§757.69(1)(g)7.</a>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>86. Can a party request substitution of a judge?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Any party to a civil action or proceeding may file a written request, signed personally or by his or her attorney, with the clerk of courts for a substitution of a new judge for the judge assigned to the case. <a href="#">§801.58(1)</a>.</p>			
<p>87. If a party requests substitution of a judge, does the original order remain in effect?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>If the judge determines that the request for substitution was made timely and in proper form, any ex parte order granted by the original judge remains in effect according to its terms. A TRO issued by the original judge is extended until the newly assigned judge holds a hearing on the issuance of an injunction. The newly assigned judge shall hear any subsequent motion to modify or vacate any ex parte order granted by the original judge.</p> <p><a href="#">§813.12(3)(c)</a>; <a href="#">§813.122(4)(c)</a>; <a href="#">§813.123(4)(c)</a>; <a href="#">§813.125(3)(c)</a>; <a href="#">§801.58(2m)</a>.</p>			
<p>88. When can a party seek a review of a restraining order decision made by a circuit court commissioner?</p>	<p>A party may seek a de novo review [<i>hearing de novo</i>] of any decision or order entered by a court commissioner for any reason, including the denial of a domestic abuse TRO or injunction.</p> <p>A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing as if the original hearing had not taken place. See: <a href="#">§757.69(8) and statutory notes</a>.</p> <p><b>See Questions 89 &amp; 90</b> for more information.</p>	<p>A party may seek a de novo review [<i>hearing de novo</i>] of any decision or order entered by a court commissioner for any reason, including the denial of a child abuse TRO (note: child abuse <b>injunctions</b> can only be issued by a judge, so a de novo review of this injunction is <b>not</b> available.)</p> <p>A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing as if the original hearing had not taken place. See: <a href="#">§757.69(8) and statutory notes</a>.</p> <p><b>See Questions 89 &amp; 90</b> for more information.</p>	<p>A party may seek a de novo review [<i>hearing de novo</i>] of any decision or order entered by a court commissioner for any reason, including the denial of an individual's at risk TRO or injunction.</p> <p>A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing as if the original hearing had not taken place. See: <a href="#">§757.69(8) and statutory notes</a>.</p> <p><b>See Questions 89 &amp; 90</b> for more information.</p>	<p>A party may seek a de novo review [<i>hearing de novo</i>] of any decision or order entered by a court commissioner for any reason, including the denial of a harassment TRO or injunction.</p> <p>A de novo review [<i>hearing de novo</i>] means a judge conducts a new hearing as if the original hearing had not taken place. <a href="#">§757.69(8) and statutory notes</a>.</p> <p><b>See Questions 89 &amp; 90</b> for more information.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>89. If a party seeks a de novo review, does the original decision remain in effect?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Yes. Any determination, order, or ruling entered by a court commissioner remains in effect until the judge in the <i>de novo</i> hearing issues his or her final determination, order, or ruling.</p> <p><a href="#">§813.126.</a> _</p>			
<p><b>90. What is the process to seek a review of a decision by a circuit court commissioner?</b></p> <p><i>This information is the same for all types of orders.</i></p>	<p>A motion for de novo review [<i>hearing de novo</i>] in a restraining order must be filed within 30 days after issuance of the court commissioner’s decision. The clerk of court shall provide notice to the nonmoving party of the filing of the hearing de novo of a TRO or injunction hearing. The clerk of court does not have to provide notice of a hearing de novo of a denied TRO. The court shall hold the hearing de novo within 30 days after the motion is filed, unless it finds good cause for an extension.</p> <p><a href="#">§813.126.</a></p> <p>See <a href="#">CV-503</a>, Motion for Hearing De Novo.</p>			
<p><b>91. What happens if a conviction that formed the basis for a permanent injunction (sexual assault) is vacated?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>If a respondent's criminal conviction that formed the basis for a permanent injunction in an action under s. <a href="#">813.12</a>, <a href="#">813.122</a>, <a href="#">813.123</a>, or <a href="#">813.125</a> has been vacated, the respondent may file a motion requesting a hearing to review the injunction. The court shall hold the review hearing within 30 days after the motion requesting the hearing is filed with the court unless the court finds good cause for an extension. At the hearing, if the judge finds that the conviction that formed the basis for the permanent injunction has been vacated, the judge shall modify the duration of the injunction or vacate the injunction. In so modifying or vacating the injunction, the judge shall consider all relevant factors, including the risk to the petitioner and the time that has passed since the injunction was ordered. No modified injunction ordered under this subsection may be in effect for a longer period than the maximum period that would have been possible when the injunction was first ordered if the injunction had not been permanent. If the maximum possible period from the time the injunction was first ordered has elapsed, the judge shall vacate the injunction. <a href="#">§813.126(1m)</a></p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>92. How can a party seek a review/appeal of a circuit court judge's decision?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p><b>Note: this information applies to a judge's decision only; a court commissioner's final decision cannot be appealed. See Questions 88, 89, and 90.</b></p> <ol style="list-style-type: none"> <li>1. A party can file a <b>motion for reconsideration</b> to request the <i>circuit court</i> to amend its findings/conclusions or make additional findings/conclusions and change the judgment accordingly. <a href="#">§805.17(3)</a>. A motion for reconsideration must either provide newly discovered evidence or establish an error of law or fact; an error is demonstrated by the circuit court's misapplication of or failure to recognize existing law. Therefore, a motion for reconsideration cannot be used to introduce evidence that could have been presented at the initial hearing/trial. <a href="#">Koepsell's Olde Popcorn Wagons v. Koepsell's Festival Popcorn Wagons, 2004 WI App 129</a>.</li> <li>2. A party can file a <b>motion for relief</b> to request the trial court to reopen a decision based on certain circumstances. Some circumstances include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence which entitles a party to a new trial, fraud, misrepresentation, or other misconduct of an adverse party. The motion for relief must be made within one year after the judgment was entered or the order or stipulation was made. See <a href="#">§ 806.07</a>.</li> <li>3. Any party can file for an <b>appeal by right</b> requesting the <i>court of appeals</i> to review a final decision issued by a judge; a final decision is one which resolves all the issues in the dispute. An appeal is more likely to be successful if the record has been preserved, which requires a party to raise any objections to potential legal errors during the circuit court trial/hearing. Failure to make an objection typically results in that issue being waived on appeal. If an objection is not made during the trial/hearing, the losing party could ask the judge at the time of the decision to explain the legal basis for the decision, which also serves to preserve the objection. On appeal, legal questions will be decided independently, meaning that an appellate court will not defer to the trial court on questions of law. <a href="#">§808.03(1)</a>. <p><b>Note:</b> an appeal that questions whether the evidence presented was sufficient to support the circuit court's findings may be raised regardless of whether the respondent objected in the trial court to such findings. <a href="#">§805.17(4)</a>. Because the statutes make these injunctions permissive ("the judge may grant...") rather than mandatory, an appellate court will only overturn the judge's discretionary decision on a sufficiency appeal if the evidence was clearly insufficient to support the injunction. <a href="#">In Re Lubinski, 2008 WI App 151</a>; <a href="#">Welytok v. Ziolkowski, 2008 WI App 67</a>.</p> </li> <li>4. An <b>appeal by permission</b> can be used to appeal to the <i>court of appeals</i> any non-final order that is in writing and on file with the clerk of courts. Such appeals are meant to protect the petitioner from substantial or irreparable injury or to clarify an issue of general importance in the administration of justice. <a href="#">§808.03(2)</a>.</li> </ol> <p><i>Note: An appeal is complicated, time-consuming, and difficult. The assistance of an attorney is recommended if possible. Parties who appear pro se are expected to know and follow all appellate rules, found in <a href="#">Chapter 809</a> of the Wisconsin Statutes. See <a href="http://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf">http://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf</a> for an in-depth guide to pro se appeals.</i></p>			

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>93. What is the process to seek a review/appeal of a circuit court judge's decision?</p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p><b>Note: this information applies to a judge's decision only; a court commissioner's final decision cannot be appealed. See <a href="#">Questions 88-90</a>.</b></p> <ol style="list-style-type: none"> <li>1. A <b>motion for reconsideration</b> must be filed with the <i>circuit court</i> within 20 days of the judgment. If the court does not decide a motion (or fails to act on a motion) within 90 days after the initial judgment, the motion is considered to be denied, and the time for initiating an appeal commences after <i>these</i> 90 days have passed (see answer #2). <a href="#">§805.17(3)</a>.</li> <li>2. A party can file a <b>motion for relief</b> to request the trial court to reopen a decision based on certain circumstances. Some circumstances include mistake, inadvertence, surprise, excusable neglect, newly discovered evidence which entitles a party to a new trial, fraud, misrepresentation, or other misconduct of an adverse party. The motion for relief must be made within one year after the judgment was entered or the order or stipulation was made. See <a href="#">§806.07</a>.</li> <li>3. A Notice of Appeal for an <b>appeal by right</b> must be filed with the <i>court of appeals</i> within 45 days of the judgment if the party received written notice of the judgment; if no written notice was received, a party has 90 days to file. If the party first filed a motion for reconsideration (see answer #1), the time for initiating an appeal commences when the court denies the motion on the record or when an order denying the motion is entered, whichever occurs first. If the court failed to decide a motion within 90 days of the original judgment and the motion is thus "denied," the 90-day appeal timeframe begins after the original 90 days (following the circuit court judgment) have passed. A fee must be included with the original Notice of Appeal. Within 14 days of this initial filing, a party must file a Statement on Transcript (note: a transcript is needed if the appeal refers to any statements made in court, and a request for the transcript should be filed with the circuit court before this Statement on Transcript is filed with the appellate court). <a href="#">§§805.17, 808.04(1)</a>.</li> <li>4. For an <b>appeal by permission</b>, a party must file a petition and supporting memorandum (see <a href="#">§809.50</a> for guidelines) asking a <i>court of appeals</i> for permission to appeal within 14 days of the entry of the non-final judgment being appealed. A filing fee must be included with the petition. Any opposing party has 14 days to file a response after receiving notice of the original appellate petition. If the appellate court grants permission for the appeal, the appellant-party must file a Statement on Transcript within 14 days (see answer #2 for information about transcript requirements). <a href="#">§809.50</a>.</li> </ol> <p>See <a href="http://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf">http://www.wicourts.gov/publications/guides/docs/proseappealsguide.pdf</a> for an in-depth guide to pro se appeals.</p>			
<p>94. Does the law say anything about a guardian ad litem (GAL)?</p>	<p>No. However, <a href="#">§813.12(5)(d)</a> refers to a guardian in a case where an individual is adjudicated incompetent. This is <b>NOT</b> a reference to a guardian ad litem (GAL).</p>	<p>Yes. The court or circuit court commissioner, on its own motion or the motion of any party may order a guardian ad litem be appointed for child victim in accordance to <a href="#">§48.235</a>. <a href="#">§813.122(3)(b)1m</a>.</p> <p>Court shall appoint a guardian ad litem if respondent is a parent of child victim. <a href="#">§813.122(3)(b)2m</a>.</p> <p>A GAL is not necessary for child victim to petition for TRO or injunction. See <a href="#">§813.122(2)</a>.</p>	<p>Yes. The court on its own motion or on the motion of any party shall order that a guardian ad litem be appointed for the individual at risk, if the petition was filed by a person other than the individual at risk, and may order that a guardian ad litem be appointed in other instances when justice so requires. <a href="#">§813.123(3)(b)</a>.</p>	<p>Yes. The court on its own motion or on the motion of any party may appoint a guardian ad litem for a child petitioner or child respondent when justice so requires. <a href="#">§813.125(2g)</a>.</p> <p>A guardian ad litem is not necessary for a child victim to petition for a TRO or injunction. See <a href="#">§813.125(2)(b)</a>.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
95. If court appoints a guardian ad litem (GAL), who pays GAL fees?	<a href="#">§813.12</a> does not address this issue as it does not include an appointment for a GAL.	<ol style="list-style-type: none"> <li>1. The court may order either or both of the parents of a child for whom a guardian ad litem is appointed under <a href="#">§813.122</a> to pay all or any part of the compensation of the guardian ad litem. However, if one or both parents are indigent or if the court determines it would be unfair for the parent to pay, the court may order the county to pay GAL fees. See <a href="#">§48.235(8)(b)</a>.</li> <li>2. <b>But note:</b> the court may not order the child victim or any parent, stepparent, or legal guardian of the child victim who is not a party to the action, to pay any part of the guardian ad litem fees. This means the court cannot order the non-offending parent, stepparent, or legal guardian to pay the GAL fees. <a href="#">§48.235(8)(c)3</a>.</li> </ol>	<a href="#">§813.123</a> does not address this. County websites state “GAL fees may be assessed.”	<ol style="list-style-type: none"> <li>1. The court may order either or both of the parents of a child for whom a guardian ad litem is appointed under <a href="#">§813.122</a> to pay all or any part of the compensation of the guardian ad litem. However, if one or both parents are indigent or if the court determines it would be unfair for the parent to pay, the court may order the county to pay GAL fees. See <a href="#">§48.235(8)(b)</a>.</li> <li>2. But note: The court may not order the child victim or any parent, stepparent, or legal guardian of the child victim who is not a party to the action, to pay any part of the guardian ad litem fees. This means the court cannot order the non-offending parent, stepparent, or legal guardian to pay the GAL fees. <a href="#">§48.235(8)(c)3</a>.</li> </ol>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
96. Must the court or clerk of circuit court provide the petitioner any help?	<ol style="list-style-type: none"> <li>1. Yes. Court shall advise petitioner of right to serve respondent petition by published notice if with due diligence respondent cannot be served as provided under</li> <li>2. <a href="#">§801.11(1)(a), or (b)</a>;</li> <li>3. <a href="#">§813.12(3)(d)</a>.</li> <li>4. Clerk of court shall assist petitioner with preparation of notice and filing of affidavit. <a href="#">§813.12(3)(d)</a>.</li> <li>5. Clerk of court shall provide simplified forms provided under <a href="#">§49.165(3)(c)</a> to help person file a petition. <a href="#">§813.12(5)(b)</a>.</li> <li>6. Upon request of the petitioner, the court or circuit court commissioner shall order the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence. <a href="#">§813.12(6)(a)</a></li> </ol>	<ol style="list-style-type: none"> <li>1. Upon request, the clerk of court shall provide, without cost, the simplified forms obtained under <a href="#">§48.47(7)(d)</a> to a petitioner. <a href="#">§813.122(6)(b)</a>.</li> </ol>	<ol style="list-style-type: none"> <li>1. Within one business day after order or injunction is issued, extended, modified, or vacated, the clerk of circuit court shall send a copy to the sheriff or to any other local law enforcement agency which is the central repository for orders &amp; which has jurisdiction over the petitioner's premises. <a href="#">§813.123(8)(b)</a>.</li> </ol>	<ol style="list-style-type: none"> <li>1. Yes. The court shall advise the petitioner of their right to serve the respondent the petition by published if with due diligence the respondent cannot be served as provided under <a href="#">§801.11(1)(a) or (b)</a>. The clerk of court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing. <a href="#">§813.125(3)(d)</a>.</li> <li>2. The clerk of circuit court shall provide simplified forms. <a href="#">§813.125(5)(b)</a>.</li> </ol>
97. Are there other laws which might assist a petitioner?	<ol style="list-style-type: none"> <li>1. <a href="#">§813.115</a> - Service notification system.</li> <li>2. <a href="#">§895.45</a> - Victim service representative.</li> <li>3. <a href="#">Chapter 949</a> - Crime Victim Compensation, if victim has reported the crime &amp; it is compensable.</li> <li>4. <a href="#">Chapter 950</a> - Rights of victims &amp; witnesses of crime, if respondent is charged with crime.</li> <li>5. <a href="#">CVRB 1</a> - Complaint Procedure: procedures for the review of complaints made to the crime victims' rights board.</li> </ol>			

	<b>DOMESTIC ABUSE SECTION 813.12</b>	<b>CHILD ABUSE SECTION 813.122</b>	<b>INDIVIDUALS AT RISK (IAR) SECTION 813.123</b>	<b>HARASSMENT SECTION 813.125</b>
<b>98. How does a petitioner modify a TRO or injunction?</b>	<ol style="list-style-type: none"> <li>1. <b>Court</b> may not modify an order restraining the respondent based solely on the request of the respondent. <a href="#">§813.12(4)(b)</a>.</li> <li>2. An order made out of court without notice may be modified without notice by judge who made it. <a href="#">§807.03</a></li> <li>3. An order made upon notice shall not be modified except by court upon notice. <a href="#">§807.03</a>.</li> <li>4. A petitioner may put a request in writing to the court stating what they wish to modify and why. After receiving the request, the court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</li> </ol>	<ol style="list-style-type: none"> <li>1. If respondent is parent of child victim, judge shall modify the order to provide parent reasonable visitation rights, unless judge finds that visitation would endanger child's physical, mental, or emotional health. Visitations may be supervised. <a href="#">§813.122(5)(b)</a>.</li> <li>2. An order made out of court without notice may be modified without notice by judge who made it. <a href="#">§807.03</a>.</li> <li>3. An order made upon notice shall not be modified except by court upon notice. <a href="#">§807.03</a></li> <li>4. A petitioner may put a request in writing to court stating what they wish to modify and why. After receiving request, court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</li> </ol>	<ol style="list-style-type: none"> <li>1. An order made out of court without notice may be modified without notice by the judge who made it. <a href="#">§807.03</a>.</li> <li>2. An order made upon notice shall not be modified except by the court upon notice. <a href="#">§807.03</a>.</li> <li>3. A petitioner may put a request in writing to the court stating what they wish to modify and why. After receiving the request, the court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</li> </ol>	<ol style="list-style-type: none"> <li>1. An order made out of court without notice may be modified without notice by the judge who made it. <a href="#">§807.03</a>.</li> <li>2. An order made upon notice shall not be modified except by the court upon notice. <a href="#">§807.03</a>.</li> <li>3. A petitioner may put a request in writing to the court stating what they wish to modify and why. After receiving the request, the court will probably conduct a hearing to determine whether to grant the modification. The court might also make a decision and inform the parties in writing of its decision rather than conduct a hearing.</li> </ol>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p><b>99. How does a petitioner drop a TRO or injunction?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p><a href="#">§813.12</a>, <a href="#">§813.122</a>, <a href="#">§813.123</a> and <a href="#">§813.125</a> do not address this issue.</p> <p>However, a court has authority to drop or vacate an order in at least 3 ways:</p> <ol style="list-style-type: none"> <li>1. <a href="#">§807.03</a> (Vacate an Order);</li> <li>2. <a href="#">§806.07</a> (Relief from a judgment or order);</li> <li>3. Inherent powers of court to do justice (Discussed in case law).</li> </ol> <p>A petitioner may make a written request to drop the order, for example, by writing a letter to the court, stating why s/he wishes to have the order dropped.</p> <ol style="list-style-type: none"> <li>1. This letter should inquire whether anything further needs to be done to have the order dismissed.</li> <li>2. The petitioner should sign the letter.</li> </ol> <p>After receiving the letter, a court will <b>probably</b> set a date for a hearing for which both parties will receive notice <b>or</b> consider the request a motion to dismiss &amp; send an order to both parties granting the request. If the judge grants the order, the order to dismiss should be sent to the sheriff's department so they can remove the restraining order from their files.</p> <ol style="list-style-type: none"> <li>4. See Form <a href="#">CV-409</a>, <i>Dismissal Order(Injunction)</i></li> </ol>			
<p><b>100. If a court denies a TRO or injunction, for how long will the denied or dismissed TRO/Injunction e available on WCCA (CCAP)?</b></p> <p><i>This information is the same for all types of restraining orders.</i></p>	<p>Effective April 1, 2018, all TROs/injunctions that are denied or dismissed will only appear on Wisconsin Circuit Court Access (WCCA) for two years from the date of denial/dismissal. Clerks are required to maintain the file at the courthouse for twenty years.</p>			

## VII. GLOSSARY OF TERMS

Glossary Term	Definition	Where Found in Statute or other Sources
<p><b>Abuse, under <a href="#">813.12</a> (abuse as defined in the domestic abuse restraining order)</b></p>	<p>Domestic abuse is defined as an adult engaging in the following behavior against an adult:</p> <ol style="list-style-type: none"> <li>1. Intentional infliction of physical pain, physical injury or illness; <i>or</i></li> <li>2. Intentional impairment of physical condition; <i>or</i></li> <li>3. Violation of 1<sup>st</sup>, 2<sup>nd</sup> or 3<sup>rd</sup> degree sexual assault under <a href="#">§§940.225(1), (2) or (3)</a>; <i>or</i></li> <li>4. Violation of stalking under; <a href="#">§940.32</a>; <i>or</i></li> <li>5. Intentional damage to physical property belonging to the individual (petitioner) under <a href="#">§943.01</a>; <i>or</i></li> <li>6. Threat to engage in conduct under 1,2,3,4, 5. <a href="#">§813.12(1)(am) to 6.</a></li> </ol>	<p><a href="#">§813.12(1)(am)</a>,  <a href="#">§940.225(1), (2) or (3)</a>;  <a href="#">§940.32</a>;  <a href="#">§943.01</a></p>
<p><b>Abuse, under <a href="#">813.122</a> (abuse as defined in the child abuse restraining order)</b></p>	<ol style="list-style-type: none"> <li>1. Physical injury inflicted on child by other than accidental means; <i>or</i></li> <li>2. Sexual intercourse or sexual contact under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault], <a href="#">§948.02</a> [1<sup>st</sup>, or 2<sup>nd</sup> degree sexual assault of child], <a href="#">§948.025</a> [repeated acts of sexual assault]; <i>or</i> <a href="#">§948.085</a> [sexual assault in substitute care]</li> <li>3. Sexual exploitation of child; <i>or</i></li> <li>4. Trafficking of a child; <i>or</i></li> <li>5. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i></li> <li>6. Causing a child to view or listen to sexual activity; <i>or</i></li> <li>7. Causing child to expose or exposing genitals, pubic area, or intimate parts to a child; <i>or</i></li> <li>8. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child's home or in a motor vehicle located on the premises of a child's home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i></li> <li>9. Emotional damage; <i>or</i></li> <li>10. Threat to engage in conduct above.</li> </ol>	<p><a href="#">§813.122(1)(a)</a>;  <a href="#">§48.02(1)(a) &amp; (b) to (gm)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
<p><b>Abuse, under <a href="#">813.123</a> (abuse as defined in the individual at risk restraining order)</b></p>	<p>“Abuse” includes the following: physical abuse, emotional abuse, and sexual abuse, treatment without consent, and unreasonable confinement or restraint.</p> <ol style="list-style-type: none"> <li>1. <u>Physical abuse</u>: intentional or reckless infliction of bodily harm. <a href="#">§46.90(1)(fg)</a></li> <li>2. <u>Emotional abuse</u>: language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed. <a href="#">§46.90(1)(cm)</a></li> <li>3. <u>Sexual abuse</u>: violation of <a href="#">§§ 940.225(1), (2), (3), or (3m)</a> (criminal sexual assault law). <a href="#">§46.90(1)(gd)</a>.</li> <li>4. <u>Treatment without consent</u>: the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance. <a href="#">§46.90(1)(h)</a></li> <li>5. <u>Unreasonable confinement or restraint</u>: includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining device, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices, in entities regulated by the department - if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint. <a href="#">§46.90(1)(i)</a>.</li> </ol>	<p><a href="#">§46.90(1)(a)</a>, <a href="#">§55.01(1)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
<p><b>Abuse, under <a href="#">813.125</a> (abuse as defined in the harassment restraining order)</b></p>	<ol style="list-style-type: none"> <li>1. Striking, shoving, kicking or subjecting another to physical contact</li> <li>2. Child Abuse under <a href="#">§48.02(1)</a>, which includes: <ol style="list-style-type: none"> <li>a. Physical injury inflicted on child by other than accidental means; <i>or</i></li> <li><b>am.</b> Serious physical harm inflicted on an unborn child, and the risk of serious physical harm to child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree.</li> <li>b. Sexual intercourse or sexual contact under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault], <a href="#">§948.02</a> [1<sup>st</sup>, or 2<sup>nd</sup> degree sexual assault of child], <i>or</i> <a href="#">§948.025</a> [repeated acts of sexual assault of same child]; <i>or</i></li> <li>c. Sexual exploitation of child; <i>or</i></li> <li>d. Trafficking of a child; <i>or</i></li> <li>e. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i></li> <li>f. Causing a child to view or listen to sexual activity; <i>or</i></li> <li>g. Causing child to expose or exposing genitals or pubic area to child; <i>or</i></li> <li>h. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child’s home or in a motor vehicle located on the premises of a child’s home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i></li> <li>i. Emotional damage; <i>or</i></li> </ol> </li> <li>3. Sexual assault under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault]</li> <li>4. Stalking under <a href="#">§940.32</a> [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury]</li> <li>5. Attempting or threatening to do any of the above.</li> <li>6. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person &amp; which serve no legitimate purpose.</li> </ol>	<p><a href="#">§813.125(1)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
<p><b>Abuse, under <a href="#">968.075</a> (domestic abuse as defined in the mandatory arrest law)</b></p>	<p>"Domestic abuse" means any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:</p> <ol style="list-style-type: none"> <li>1. Intentional infliction of physical pain, physical injury or illness.</li> <li>2. Intentional impairment of physical condition.</li> <li>3. A violation of <a href="#">§940.225 (1), (2) or (3)</a> [1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> degree sexual assault].</li> <li>4. A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subdivision <a href="#">1.</a>, <a href="#">2.</a> or <a href="#">3.</a> See <a href="#">968.075(1)(a)4.</a></li> </ol> <p><u>Mandatory Arrest Law</u></p> <p>A law enforcement officer shall arrest and take a person into custody if:</p> <ol style="list-style-type: none"> <li>1. The officer has reasonable grounds to believe that the person is committing or has committed domestic abuse (see definitions above) and that the person's actions constitute the commission of a crime; and</li> <li>2. Any of the following apply: <ol style="list-style-type: none"> <li>a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.</li> <li>b. There is evidence of physical injury to the alleged victim.</li> <li>c. The person is the predominant aggressor.</li> </ol> </li> </ol>	<p><a href="#">§968.075(1)(a)</a></p> <p><a href="#">§968.075(2)</a></p>
<p><b>Adult at Risk</b></p>	<p>Any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p>	<p><a href="#">§55.01(1e)</a></p>
<p><b>Adult-at-risk Agency</b></p>	<p>The agency designated by the county board of supervisors to receive, respond to, and investigate reports of abuse, neglect, self-neglect or financial exploitation.</p>	<p><a href="#">§55.01(1f)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Canadian Domestic Violence Protection Order</b>	A judgment or order issued in a civil proceeding by a court of Canada which relates to domestic violence and prohibits the respondent from doing any of the following: 1. Being in physical proximity to the protected individual 2. Directly or indirectly contacting or communicating with the protected individual 3. Being within a certain distance of specified places associated with the protected individual 4. Molesting, annoying, harassing, or engaging in threatening conduct	<a href="#">§813.1283(2)(a)</a>
<b>Caregiver</b>	An individual who provides in-home or community care to another through regular and direct contact.  A person who has assumed responsibility for all or a portion of an individual's care voluntarily, by contract, or by agreement, including a person acting or claiming to act as a legal guardian.	<a href="#">§813.12(1)(ad)</a> ,  <a href="#">§46.90(1)(an)</a>
<b>Child</b>	A person under 18 years of age. For purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, a “child” does not include a person who has reached 17 years of age.	<a href="#">§48.02(2)</a>
<b>Children In Need of Protection and/or Services (CHIPS)</b>	CHIPS stands for children in need of protection and/or services. Courts have exclusive jurisdiction over children alleged to be in need of protection or services which can be provided by court order AND who meet the criteria under <a href="#">§48.13</a> .	<a href="#">§48.13</a>
<b>Constructive Knowledge</b>	A respondent who does not appear at a hearing but was served with a copy of the petition and notice of time and hearing for the injunction has constructive knowledge of the existence of the injunction (for individual at risk and harassment restraining orders – this includes information about the possibility for firearms surrender as well) and shall be arrested for violation of the injunction regardless of whether he or she has been served with a copy of the injunction.	<a href="#">§813.12(7)(c)</a> <a href="#">§813.122(10)(c)</a> <a href="#">§813.123(9)(c)</a> <a href="#">§813.125(6)(c)</a>
<b>Damage to Physical Property</b>	Intentionally causing damage to the physical property of another without the person’s consent.	<a href="#">§943.01</a>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Dating Relationship</b>	<p>A romantic or intimate social relationship between two adults, but not including a casual or ordinary fraternization between two individuals in a business or social context. Courts shall determine whether a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship.</p> <p>Although the statute does not define "romantic," the statute is not unconstitutionally vague.</p>	<p><a href="#">§813.12(1)(aq)</a></p> <p><a href="#">State v. Koenig, 2003 WI App. 12.</a></p>
<b>Elder Adult at Risk</b>	<p>A person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p>	<p><a href="#">§46.90(1)(br)</a></p>
<b>Elder-adult-at-risk Agency</b>	<p>The agency designated by the county board of supervisors to receive, respond to and investigate reports of abuse, neglect, self-neglect, and financial exploitation.</p>	<p><a href="#">§46.90(1)(bt)</a></p>
<b>Emotional Abuse</b>	<p>Language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual.</p>	<p><a href="#">§46.90(1)(cm)</a></p>
<b>Emotional Damage</b>	<p>Means harm to a child's psychological or intellectual functioning. "Emotional damage" shall be evidenced by one or more of the following characteristics exhibited to a severe degree: anxiety; depression; withdrawal; outward aggressive behavior; or a substantial and observable change in behavior, emotional response or cognition that is not within the normal range for the child's age and stage of development.</p> <p>Emotional damage for which the child's parent, guardian or legal custodian has neglected, refused or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.</p> <p>Case law says that emotional damage does not include name-calling, threats against a child's parent, or dislike of a parent when they have been drinking.</p>	<p><a href="#">§48.02(5j)</a>,</p> <p><a href="#">§48.02(1)(gm)</a></p> <p><a href="#">In the Interest of H.Q. and P.Q., 449 N.W.2d 75(1989).</a></p>
<b>Ex Parte</b>	<p>One party only; one party files a motion or an action without notice to the other.</p>	<p><b>See Question 1,</b> <a href="#">Legal Information Institute</a></p>
<b>Family Member</b>	<p>A spouse, parent, child, or person related by blood or adoption to another person.</p>	<p><a href="#">§813.12(1)(b)</a></p>
<b>Farm Animal</b>	<p>Any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.</p>	<p><a href="#">§951.01(3)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Financial Exploitation</b>	<p>Any of the following:</p> <ol style="list-style-type: none"> <li>1. Obtaining an individual's money or property by deceiving or enticing the individual, or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent.</li> <li>2. Theft, as prohibited in <a href="#">§ 943.20</a></li> <li>3. The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities.</li> <li>4. Unauthorized use of an individual's personal identifying information or documents, as prohibited in <a href="#">§ 943.201</a></li> <li>5. Unauthorized use of an entity's identifying information or documents, as prohibited in <a href="#">§943.203</a></li> <li>6. Forgery, as prohibited in <a href="#">§ 943.38</a></li> <li>7. Financial transaction card crimes, as prohibited in <a href="#">§ 943.41</a></li> </ol>	<a href="#">§46.90(1)(ed)</a>
<b>Financial Responsibility (for telephone services)</b>	Includes monthly service costs and costs associated with any mobile device associated with the number.	<a href="#">§813.12(4g)</a> <a href="#">§813.122(5c)</a> <a href="#">§813.123(5c)</a> <a href="#">§813.125(4g)</a>
<b>Firearm Surrender</b>	Respondent must surrender any firearms they own or possess if firearm surrender order is issued. Domestic abuse and child abuse injunctions contain a mandated firearm surrender provision.	<a href="#">§813.12(4m)</a> , <a href="#">§813.122(5m)</a> , <a href="#">§813.123(5m)</a> , <a href="#">§813.125(4m)</a> , <a href="#">§813.1285</a>
<b>Firearm(s)</b>	<p>Weapon which acts by force of gunpowder. In <a href="#">State v. Radon 185 Wis.2d 701, 706 (Ct. App. 1994)</a>, the court held the term firearm is appropriately defined as a weapon that acts by force of gunpowder to fire a projectile irrespective of whether it is inoperable due to a disassembly.</p> <p>Wisconsin Statute <a href="#">§939.22(10)</a> defines a “dangerous weapon” as any firearm, whether loaded or unloaded.</p>	<a href="#">§167.31(1)(c)</a>  <a href="#">§939.22(10)</a>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Full Faith and Credit</b>	<p>The authority for one jurisdiction to enforce an order issued by another court as if it were issued by their own court and as their own order, regardless of who issued the order.</p> <p>Restraining orders subject to full faith and credit include all orders issued in a United States court, tribal court, a U.S. Territory or U.S. Possession and protective orders issued in Canada.</p>	<p><a href="#">§813.128</a>,  <a href="#">§813.1283</a>  <a href="#">§813.12(9)</a>  <a href="#">§813.122(12)</a>  <a href="#">§813.123(12)</a>  <a href="#">§813.125(8)</a></p>
<b>Global Positioning System (GPS) Tracking</b>	<p>Tracking using a system that actively monitors and identifies a person's location and timely reports or records the person's presence in an exclusion zone.</p> <p>An order for GPS tracking is made pursuant to the court's criminal authority under <a href="#">Chapter 301</a>, and is not part of certain <a href="#">Chapter 813</a> civil orders.</p> <p>The court can order GPS tracking if the court finds the respondent is more likely than not going to seriously harm the petitioner, and knowingly violates any of the following:</p> <ol style="list-style-type: none"> <li>1. Domestic Abuse TRO-<a href="#">§813.12</a></li> <li>2. Domestic Abuse Injunction-<a href="#">§813.12</a></li> <li>3. Harassment TRO-<a href="#">§813.125</a></li> <li>4. Harassment Injunction-<a href="#">§813.125</a></li> </ol> <p>Even if the court determines that a person is more likely than not going to cause serious bodily harm to the petitioner, the court may decide other alternatives, such as imprisonment, are more likely to protect the petitioner.</p>	<p><a href="#">§301.49(1)(b)</a></p> <p><a href="#">§301.49</a>, <a href="#">§813.129</a></p> <p><a href="#">§813.129(1)</a>  <a href="#">§813.129(2)</a></p> <p><a href="#">§813.129(5)</a></p>
<b>Guardian Ad Litem (GAL)</b>	<p>Attorney who represents the best interest of the person (e.g., child or individual at risk) or unborn child for whom the appointment has been made.</p>	<p><a href="#">See §48.235(3)(a)</a></p>
<b>Guardian</b>	<p>A person appointed by the court to manage the income and assets and provide for the essential requirements for health and safety and the personal needs of a minor, an individual found incompetent under <a href="#">§54.01(16)</a>, or a spendthrift under <a href="#">§54.01(31)</a>.</p> <p>A person given responsibility or authority by the court in place of a parent in the case of a minor who is alleged to have a developmental disability <a href="#">Chapter 55</a>.</p>	<p><a href="#">§54.01(10)</a></p> <p><a href="#">§55.03(3)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
Harassment	<p><b><u>Harassment in the restraining order law means any of the following:</u></b></p> <ol style="list-style-type: none"> <li>1. Striking, shoving, kicking or subjecting another to physical contact</li> <li>2. Child Abuse under <a href="#">§48.02(1)</a>, which includes: <ol style="list-style-type: none"> <li>a. Physical injury inflicted on child by other than accidental means; <i>or</i></li> <li>am. Serious physical harm inflicted on an unborn child, and the risk of serious physical harm to child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances or controlled substance analogs, exhibited to a severe degree.</li> <li>b. Sexual intercourse or sexual contact under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault], <a href="#">§948.02</a> [1<sup>st</sup>, or 2<sup>nd</sup> degree sexual assault of child], or <a href="#">§948.025</a> [repeated acts of sexual assault of same child]; <i>or</i></li> <li>c. Sexual exploitation of child; <i>or</i></li> <li>d. Trafficking of a child; <i>or</i></li> <li>e. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i></li> <li>f. Causing a child to view or listen to sexual activity; <i>or</i></li> <li>g. Causing child to expose or exposing genitals or pubic area to child; <i>or</i></li> <li>h. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child's home or in a motor vehicle located on the premises of a child's home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i></li> <li>i. Emotional damage; <i>or</i></li> </ol> </li> <li>3. Sexual assault under <a href="#">§940.225</a> [1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> or 4<sup>th</sup> degree sexual assault]</li> <li>4. Stalking under <a href="#">§940.32</a> [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury]</li> <li>5. Attempting or threatening to do any of the above.</li> <li>6. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person &amp; which serve no legitimate purpose.</li> </ol>	<p><a href="#">§813.125(1)</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
Harassment Cont'd	<p><b><i>Harassment in the Wisconsin Criminal Code means:</i></b> Whoever, with intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:</p> <p><b>a)</b> Strikes, shoves, kicks, or otherwise subjects the person to physical contact or attempts or threatens to do the same.</p> <p><b>b)</b> Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.</p> <p>Note: Course of conduct under this code means: means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. <a href="#">§947.013(1)(a)</a></p>	<a href="#">§947.013</a>
Household Member	<p>Person currently or formerly residing in a place of abode with another person.</p> <p>A continuous living arrangement is required to establish that parties are or were household members.</p>	<p><a href="#">§813.12(1)(c)</a></p> <p><a href="#">Petrowsky v. Krause, 223 Wis. 2d (Ct. App. 1998).</a></p>
Household Pet	<p>A domestic animal that is not a “farm animal” and is kept, owned, or cared for by the petitioner (or child victim or individual at risk) or by a family member or a household member of the petitioner, child victim, or individual at risk.</p> <p>A “farm animal” means any warm-blooded animal normally raised on farms in the United States and used or intended for use as food or fiber.</p>	<p><a href="#">§813.12 (1)(ce)</a>  <a href="#">§813.122(1)(e)</a>  <a href="#">§813.123(1)(ek)</a>  <a href="#">§813.125(1)(bm)</a>  <a href="#">§951.01(3)</a></p>
Imminent Danger of Harm	<p>The risk of injury is very near at hand; petitioner is in immediate or foreseeable danger.</p> <p><i>Blazel v. Bradley</i> states that when courts issue an <i>ex parte</i> TRO which can remove a respondent from his/her residence, there must be four constitutionally required procedural safeguards in place. One of these safeguards is the requirement that the petition include information which indicates he or she is at risk of immediate and irreparable harm. Thus, a court must find imminent danger of harm before it can order a <b>domestic abuse TRO</b>. The domestic abuse petition for TRO/Injunction includes a checkbox which a petitioner must check to indicate the petitioner is in imminent danger of harm.</p>	<p><a href="#">Blazel v. Bradley, 698 F. Supp. 756 (W.D. Wis. 1988)</a></p>
Impairment of Physical Condition	<p>Diminished capacity to perform physical tasks; placing a person in a life-threatening situation.</p>	<a href="#">§813.12(1)(am)2</a>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Incompetent Individual</b>	<p>A person adjudged by a court as meeting the requirements of Sec. <a href="#">54.10(3)</a>. The court must find by clear and convincing evidence that:</p> <ol style="list-style-type: none"> <li>1. The individual is at least 17 years and 9 months; and</li> <li>2. For purposes of appointment of a guardian of the person, the individual meets the requirements of <a href="#">§54.10(3)(a)2</a>; and</li> <li>3. For purposes of appointment of a guardian of the estate, the individual meets the requirements of <a href="#">§54.10(3)(a)3</a>; and</li> <li>4. The individual's need for assistance in decision making or communication is unable to be met effectively through other means, as explained by <a href="#">§54.10(3)(a)4</a>.</li> </ol>	<a href="#">§54.01(16)</a>
<b>Individual at Risk</b>	<p>An adult at risk or an elder adult at risk.</p> <p><u>Adult at Risk</u>: Any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.</p> <p><u>Elder Adult at Risk</u>: A person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.</p>	<p><a href="#">§813.123(1)(ep)</a></p> <p><a href="#">§55.01(1e)</a></p> <p><a href="#">§46.90(1)(br)</a></p>
<b>Mandatory Arrest Law</b>	<p>A law enforcement officer shall arrest and take a person into custody if:</p> <ol style="list-style-type: none"> <li>1. The Officer has reasonable grounds to believe that the person is committing or has committed domestic abuse and that the person's actions constitute the commission of a crime, and</li> <li>2. Any of the following apply: <ol style="list-style-type: none"> <li>a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely.</li> <li>b. There is evidence of physical injury to the alleged victim.</li> <li>c. The person is the predominant aggressor.</li> </ol> </li> </ol>	<p><a href="#">§968.075</a></p> <p><a href="#">§968.075(2)(ar)</a></p>
<b>Mistreatment of an animal</b>	<p>Cruel treatment of any animal owned by or in service to an individual at risk.</p>	<a href="#">§813.123(1)(fm)</a>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Neglect</b>	The failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health. "Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order under <a href="#">Chapter 154</a> , a power of attorney for health care under <a href="#">Chapter 155</a> , or as otherwise authorized by law.	<a href="#">§46.90(1)(f)</a> <a href="#">§55.01(4r)</a>
<b>Pet</b>	See "Household Pet," page 71.	
<b>Pro Se</b>	A person represents him or herself during a legal action/proceeding without the assistance of an attorney.	<b>See Question 1</b>
<b>Property</b>	<p>"Property" means real or personal property</p> <p><u>Personal Property</u>: includes all goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value, and not included in the term "real property," as defined in <a href="#">§70.03</a>.</p> <p><u>Real Property</u>: includes not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto, except as provided in <a href="#">70.03(2)</a> and except that for the purpose of time- share property, as defined in <a href="#">§707.02(32)</a>, real property does not include recurrent exclusive use and occupancy on a periodic basis or other rights, including, but not limited to, membership rights, vacation services and club memberships.</p>	<a href="#">§70.02</a> , <a href="#">§70.03</a>  <a href="#">§70.04</a>  <a href="#">§70.03</a>
<b>Self-neglect</b>	Self-neglect means a significant danger to an individual's physical or mental health because the individual is responsible for his or her own care but fails to obtain adequate care, including food, shelter, clothing, or medical or dental care.	<a href="#">§46.90(1)(g)</a> <a href="#">§55.01(6u)</a>
<b>Service Representative</b>	An individual member of an organization or victim assistance program who provides counseling or support services to complainants or petitioners and charges no fee for the services provided.	<a href="#">§895.45(1)(c)</a>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>Spendthrift</b>	Spendthrift means a person who, because of the use of alcohol or other drugs or because of gambling or other wasteful course of conduct, is unable to manage effectively his or her financial affairs or is likely to affect the health, life, or property of himself, herself, or others so as to endanger his or her support and the support of his or her dependents, if any, or expose the public to responsibility for his or her support.	<a href="#">§54.01(31)</a>
<b>Stalking</b>	<p>Engaging in a course of conduct – 2 or more acts carried out over time, however short or long, that show a continuity of purpose – including any of the following:</p> <ol style="list-style-type: none"> <li>1. Maintaining a visual or physical proximity to the victim.</li> <li>2. Approaching or confronting the victim.</li> <li>3. Appearing at the victim's workplace or contacting the victim's employer or coworkers.</li> <li>4. Appearing at the victim's home or contacting the victim's neighbors.</li> <li>5. Entering property owned, leased, or occupied by the victim.</li> <li>6. Contacting the victim by telephone, text message, electronic message, electronic mail, or other means of electronic communication or causing the victim's telephone or electronic device or any other person's telephone or electronic device to ring or generate notifications repeatedly or continuously, regardless of whether a conversation ensues.</li> <li>6m. Photographing, videotaping, audio taping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.</li> <li>7. Sending to the victim any physical or electronic material or contacting the victim by any means, including any message, comment, or other content posted on any Internet site or web application.</li> <li>7m. Sending to a member of the victim's family or household, or any current or former employer of the victim, or any current or former coworker of the victim, or any friend of the victim any physical or electronic material or contacting such person by any means, including any message, comment, or other content posted on any Internet site or web application for the purpose of obtaining information about, disseminating information about, or communicating with the victim.</li> <li>8. Placing an object on or delivering an object to property owned, leased, or occupied by the victim.</li> <li>9. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.</li> <li>10. Causing a person to engage in any of the acts described in subsections 1 to 9.</li> </ol> <p>Stalking consists of actions, not just words, that make up a course of conduct that the stalker knows or should know will cause fear in the victim and does cause the victim's actual distress or fear.</p>	<p><a href="#">§940.32(1)(a)</a></p> <p><a href="#">State v. Hemingway, 2012 WI App 133.</a></p>

Glossary Term	Definition	Where Found in Statute or other Sources
<b>UCCJEA (Uniform Child Custody Jurisdiction Enforcement Act) Affidavit</b>	<p>An <b>affidavit</b> which must be signed and filed in a child abuse restraining order petition (temporary restraining order and/or injunction) if the respondent is the parent, legal guardian of the child or has court-ordered visitation with the child.</p> <p>See Form <a href="#">GF-150</a>.</p>	<p>Form <a href="#">GF-150</a></p>
<b>Venue</b>	<p>This means the county in which proceedings can legally be held.</p> <ul style="list-style-type: none"> <li>• <u>Individual at risk restraining orders</u>: in the county where the claim arose, a county where there is real or personal property, or the county in which the defendant resides.</li> <li>• Venue for <u>domestic abuse, child abuse, and harassment restraining orders</u> can be in the county in which the cause of action arose or where the petitioner or respondent resides. Furthermore, venue in domestic abuse restraining orders can also be where the petitioner is <i>temporarily</i> living. See <a href="#">§§801.50(5r)</a> and <a href="#">(5s)</a> <ul style="list-style-type: none"> <li>○ In addition, there is a 100-mile radius venue under <a href="#">§801.50(5r)</a> and <a href="#">(5s)</a> for victim advocates, employees of the county court system, legal professionals, law enforcement officers who are seeking domestic abuse, child abuse, or harassment restraining orders. Finally, anyone who is in a dating relationship or has a child with, is an immediate family or household member of any of the those listed in this paragraph is also entitled to that 100-mile radius venue if they are seeking domestic abuse, child abuse, or harassment restraining orders.</li> </ul> </li> </ul>	<p><a href="#">§801.50(2)</a></p> <p><a href="#">§801.50(5r)</a> <a href="#">§801.50(5s)</a></p>
<b>VINE (Victim Information Notification Everyday)</b>	<p>VINE is a free, anonymous telephone and online service that provides the public with information and notifications. A person must register with VINE to receive notifications. VINE monitors the status of offenders in WI's county jails and provides access to offender custody status. <b>See Questions 40 &amp; 41.</b></p>	<p><a href="https://www.vinelink.com/vinelink/siteInfoAction.do?siteId=50100">https://www.vinelink.com/vinelink/siteInfoAction.do?siteId=50100</a></p>
<b>VPO (VINE Protective Order)</b>	<p>VPO is a computer data base which automatically notifies a person who has registered with VPO when a restraining order [TRO, injunction, and/or when respondent surrenders firearms to local law enforcement] is served on the respondent. VPO provides toll-free, 24-hour access to information about the status of restraining orders.</p> <p><b>See Questions 40 &amp; 41.</b></p>	<p><a href="https://registervpo.com/RegisterVPO/mapInitAction.do">https://registervpo.com/RegisterVPO/mapInitAction.do</a></p>