

Restraining Orders Fact Sheet

A restraining order is a civil court order that stops someone from hurting you. It gives you a special protection status to keep you safe. A restraining order is not a criminal case. The restraining order hearing takes place in civil court. The civil court can order someone to not harm you, to have no contact with you, and/or other reasonable requests the court finds necessary to ensure your safety. There are 4 different kinds of restraining orders in Wisconsin.

Types of Restraining Orders in Wisconsin:

1. Domestic Abuse Restraining Orders
2. Harassment Restraining Orders
3. Individual At-Risk Restraining Orders
4. Child Abuse Restraining Orders

**Information about Domestic Abuse and Harassment Restraining Orders is included in this document. If you have questions about Individual At-Risk or Child Abuse Restraining Orders, it is best to talk to an attorney or contact Embrace.*



Common Legal Terms

TRO-Stands for Temporary Restraining Order. A TRO is granted by the Judge or Court Commissioner after the petition is received and quickly reviewed by the court. The TRO offers protection before the hearing (up to 14 days) from the person hurting you.

RO-Stands for Restraining Order. Restraining orders are also called “injunctions”.

Petition-The petition refers to the court form that gives information about the abuse to the Judge and asks the Judge to grant a TRO.

Petitioner-The person who files for the RO and needs protection from the RO. Sometimes called a “party.”

Respondent-The person the RO is filed against and who has hurt the petitioner. The respondent is sometimes called the “abuser”, “perpetrator” or “party.”

Judge-The elected person who determines if the abuse in the petition meets the Wisconsin legal guidelines for a TRO or RO. The Judge presides over the hearing. A Court Commissioner can sometimes preside over a case on behalf of the Judge.

Clerk of Courts-The elected person who is responsible for maintaining court records and conducting other administrative tasks. The term is often used to indicate the Clerk of Court’s office, where forms are notarized and filed.

Injunction Hearing-The court date set after the petition is reviewed by the Judge. Even if the TRO was denied, a court date may still be set for an Injunction Hearing if it was requested in the petition. At this hearing, both the petitioner and respondent tell their sides of the story and the Judge determines if the RO will be granted following Wisconsin laws.

Domestic Abuse Restraining Orders

What kind of abuse must there be to get a Domestic Abuse Restraining Order?

Any or all of the following abuse must have occurred:

- Physical Abuse
- Sexual Abuse
- Stalking
- Intentionally damaging your property
- Threatening to do any of the above things



Who may petition for a Domestic Abuse Restraining Order?

You must be at least 18 years of age and the victim of the violence in order to petition for a Domestic Abuse RO.

**An exception is made for the guardian of an "incompetent" person.*

Who can I get a Domestic Abuse Restraining Order against?

- Anyone you have or had a romantic or sexual relationship with
- Any adult related by blood or adoption
- Anyone you live with now or have lived with in the past
- Your parent
- Your child, if he or she more than 18 years old

Can I get a Domestic Abuse Restraining Order for someone else who is being abused?

No. A Domestic Abuse Restraining Order must be filed with the Clerk of Courts by the person needing protection unless you are an adult guardian of an "incompetent" individual.

Will it cost me money to get a Domestic Abuse Restraining Order?

No. There are no fees for filing or serving a Domestic Abuse Restraining Order. You might have to pay fees to do a "service by publication" if the respondent is not able to be personally served because you don't know where he or she is at.

Do I have to get a restraining order to stop the abuse?

No. Even without a RO, it is illegal for anyone to hurt, rape, assault or threaten you. But, a Restraining Order can make it easier to protect yourself. It tells the person hurting you that more threats or abuse will lead to arrest, criminal charges, fines and/or jail time. ROs make it easier for the police to arrest the person hurting you.

What county do I file a Domestic Abuse Restraining Order in?

You can file a Domestic Abuse Restraining Order in the county where you live, the county where the respondent lives, the county where the abuse happened, or the county where you are temporarily living.

How do I get a Domestic Abuse Restraining Order?

In general, the process to obtain a RO involves three steps:

1. Complete the required court forms to petition for a TRO.
2. The TRO will be granted or denied and an Injunction Hearing may be set.
3. Go to the Injunction Hearing where the court will decide to grant or deny the RO.

You can go to or call Embrace and tell them you want to file a Domestic Abuse Restraining Order. The staff will give you the forms you need to file. Embrace can help you understand the forms and assist you in writing your statement. You can also go to the Clerk of Court's office to receive copies of the forms to be filled out. You can also file on your own following the steps below.

Step 1: Complete the TRO Forms

You can fill out and print the forms online, OR you can print them and fill them in by hand.

- Go to www.wicourts.gov
- Click on "Forms"
- Click on "Circuit Court"
- Click on "Civil"
- Click on "Domestic Abuse Restraining Order/Injunctions" to get the forms for TROs and ROs:



- Fill out **Petition for Temporary Restraining Order and/or Petition and Motion for Injunction Hearing (Domestic Abuse) Form CV-402**, **Confidential Address Information Form CV-502** (this form keeps your information confidential from the public and gives your contact information to the court), and the **Sheriff's Department Process Service Information Sheet** (this form helps the Sheriff's office serve the respondent).
- You may also need to fill out the top sections of **Temporary Restraining Order and Notice of Injunction Hearing (Domestic Abuse) Form CV-403** and **Notice and Order for Injunction Hearing When Temporary Restraining Order is Not Issued (Domestic Abuse) Form CV-446**.
- If there are guns in the respondent's home, you may fill out **Petitioner's Statement of Respondent's Possession of Firearms Form CV-801**.

**Contact the Clerk of Courts for more information about which forms need to be filed for a TRO and RO.*

Fill in the information blanks at the top of the forms, mark the boxes you want, and write your statement about the abuse. You can handwrite or type your statement on a separate piece of paper if you need to. Wait to sign your name on the forms until you are in front of a certified notary public. The notary public will need some form of photo identification to prove you are the person signing your name. The forms can be notarized at the Clerk of Court's Office.

What do I write in my statement?

The Judge has to decide if your situation meets Wisconsin's legal definition of abuse. You might want to pretend you are describing a movie of what happened and be as specific as you can. Words like "he/she abused me" or "he/she became physical" are not very descriptive. Instead, tell in as much detail as possible exactly what happened.

- Start by explaining what your relationship is to the respondent and how long that relationship has been going on.
- Tell what has happened to make you want the RO. Start with the most recent incident first, and then go back in time. After telling about the most recent incidents, create a list of other harmful and threatening things the respondent has done.
- Include date(s) and time(s) it happened, place(s) it happened, what part(s) of your body was touched, what part(s) of the abuser’s body was used, what weapon(s) was used, exact words or quotes of threats, body language, and what and where injuries were.
- Use names instead of he/she/they.
- Do not use emotional statements or derogatory language against the abuser. The court only wants to hear the facts.
- End the statement with a sentence telling the judge what you want and why you want it. For example: I want this injunction because I fear for my safety.
- Sign and date the statement.

Statement Example

Poor

We were arguing. Respondent screamed at me and I was afraid.

Good

Last Thursday night, November 15, 2006, we had been talking about our child. Respondent screamed that I had better do exactly what he said or I’d be sorry. He was standing inches away from me and I was backed into the wall of the kitchen. I could feel his spit on my face as he screamed. I was afraid because the last time, about a month ago, when he had said I had better do something or I’d be sorry, I did not do what he wanted and he grabbed me and shook me really hard. So this time I was really afraid he would do it again. I ducked under his arms and ran out of the house.



Step 2: Reviewing the TRO Forms

The Judge, or sometimes a Court Commissioner instead of a Judge, will review your forms and statement to see if the information you shared meets the legal guidelines for granting TROs. If it meets Wisconsin’s legal guidelines, the Judge will grant the TRO. If the information does not meet the required legal guidelines, the Judge will deny the TRO. The Judge will usually look at your TRO forms that business day. You can wait at the courthouse to find out if the TRO was granted or denied by the Judge. You can also contact the Clerk of Courts to find out if the TRO was granted.

If the TRO is granted:

- The date for the Injunction Hearing will be set. The hearing is usually scheduled within 14 days.
- The respondent then needs to be notified of the injunction date (also called being “served”). Once you file the forms, the Clerk of Courts will send them, along with any other forms that need to be served, to the Sheriff’s Department for service. The respondent must be served 24-48 hours before the scheduled hearing. If the respondent is not served in time, you can file for an extension of the TRO using ***Order Extending Time for Hearing Form CV-408***.
 - The Clerk of Courts will give you an Aid in Serving form to fill out with information about where to find the Respondent. This will also be sent over to the Sheriff’s Department.

- You can sign up for VPO (Vine Protective Order) at www.vinelink.com or by calling 1-855-947-7648 so you are notified when the respondent has been served the papers.
- If the papers cannot be served, you can get an affidavit or proof of attempted service from the Sheriff's Department and bring it with you to the scheduled hearing. This proves you tried to serve the respondent. The TRO can then be extended for 14 days in order to allow for the respondent to be served.
- You can publish a paid, class 1 notice in the newspaper where the respondent lives if the respondent cannot be personally served. This is called "service by publication." You may use the **Publication Notice (Domestic Abuse Injunction Hearing) Form CV-417** to send the correct information to the newspaper. The newspaper should then send an affidavit of printing back to you. You will then bring this affidavit and a copy of the notice to the Injunction Hearing. The **Temporary Restraining Order and Notice of Injunction Hearing (Domestic Abuse) Form CV-403** must also be sent to the respondent via certified mail or fax (you will need proof the forms were sent). You can fill out the **Publication Affidavit of Mailing or Facsimile for Domestic Abuse or Harassment Form CV-506**, and bring it with to the Injunction Hearing.

If the TRO is denied:

- If you marked the box on the **Petition for Temporary Restraining Order and/or Petition and Motion for Injunction Hearing (Domestic Abuse) Form CV-402** saying you want a hearing scheduled even if the TRO is denied, the court will still schedule a hearing. The respondent still needs to be served the papers. There is no protection from the TRO until the hearing. If you did not check the box to have a hearing scheduled, the case will be dismissed.

Remember! The respondent will be able to read your statement and all court forms when they are served papers. They get a copy of all the forms you turned into the court except the **Confidential Address Information Form CV-502**.

Step 3: The Injunction Hearing

If you don't attend the scheduled hearing, the TRO and RO will be dismissed. If the respondent does not attend the scheduled Injunction Hearing, the RO will most likely be granted. Wisconsin laws do not allow the TRO to be extended when the respondent doesn't show up if there is proof of service on file.

How do I prepare for the hearing?

- Make sure the respondent has been served 24-48 hours before the hearing.
- Bring any evidence that may be helpful in proving your side of the story at the Injunction Hearing.
 - For example: testimony (from a person who witnessed the event), police reports, 911 calls, photographs, medical records, emails, or text messages (printed off).
 - Evidence must be relevant and true.
- Arrive at the Courthouse 15 minutes before the scheduled Injunction Hearing. If you are afraid for your safety, call Embrace or the Clerk of Courts office to request a deputy be present at the hearing with you to help ensure your safety.

- Get ready to tell your side of the story to the Judge. Some courts will only allow you to include the information that you put in your statement.
 - Start with the most recent incident first.
 - Tell of other incidents of abuse in order to establish a pattern.
 - Finish by telling the Court what you want and why.
- The Judge will ask you if you know what guns the respondent has. You can tell them the makes and models of the guns if you know because it will be easier for the Sheriff's Department to find out if the respondent turned in all of the guns he or she has.
- Get ready to answer any questions the respondent might ask you about your testimony.

What happens at the Injunction Hearing?

The basic process of an Injunction Hearing is:

1. The Court asks/states who is present at the hearing.
2. The Judge, or Court Commissioner in some cases, will ask the respondent if he/she contests (doesn't want the RO).
3. The Judge will ask you to testify. You may be called to the witness stand and the Clerk of Courts will swear you in.
4. You explain what happened and why you need a RO. The Judge, respondent, or their attorney can ask you questions. If possible, bring evidence such as police reports, medical records, and photos to the hearing.
5. When you're done testifying, you'll be asked to return to your seat.
6. If you brought witnesses to testify, they might also be called to the witness stand and sworn in. The Judge might ask them what happened. The respondent or their attorney can also ask the witnesses questions through a process called cross-examination.
7. When the witnesses are done testifying, they'll be asked to return to their seats.
8. The respondent will then be called to the witness stand and sworn in.
9. The respondent tells their side of the story. The Judge and you or your attorney can ask them questions.
10. If the respondent brought witnesses, they'll go through the same steps as your witnesses did.
11. The Judge can ask any additional questions.
12. The Judge will decide to grant or deny the RO request.
13. The Judge will ask how long you want the RO for (up to 4 years in most cases; sometimes the Judge will grant it for 10 years).
14. The Judge will ask if the respondent has guns and will read the ***Petitioner's Statement of Respondent's Possession of Firearms Form CV-801*** if you turned it in.
15. If the Court finds out the respondent has guns, the respondent will be ordered to surrender their guns to the Sheriff's Department or bring them to another Court-approved person within 48 hours. The respondent will also be ordered to go to a firearm surrender hearing within one week of the Injunction Hearing if the guns are not surrendered within 48 hours.
16. You and the respondent will receive a copy of the RO. If the respondent is not present, he or she will be served with the RO forms.
17. The Judge will adjourn the hearing, and you'll go to the Clerk of Court's office to get your copy of the RO if it was granted.
18. If requested, a Deputy from the Sheriff's Department will walk with you out to your car.

Note: It is always best to have a lawyer or an Embrace advocate present, but it is not required.



What can I ask the Court to do in the restraining order?

You can ask the Court to order the person who hurt you to do many things, including:

- Not harm or threaten you.
- Not have guns or other weapons and to have all access to them taken away.
- Not contact you in person, use another person to contact you, contact you by email, messaging, phone or any other way.
- Leave your home, even if you have left to stay somewhere else for a while.
- Stay away from your children until custody is set.
- Use a Safe Exchange service at Embrace. Safe Exchange allows parents to do a custody exchange safely and without confrontation. This service is free. Call Embrace for more information.
- Stay away from any location you are temporarily at including home, work, or school.
- Pay for costs you have had because of the abuse. This can be medical bills or the cost of replacing or repairing damaged property.
- Keep insurance for you and the children.
- Not hurt any pet or companion animal as a way to threaten you. There are two boxes you may want to mark on page 2 of the ***Petition for Temporary Restraining Order and/or Petition and Motion for Injunction Hearing (Domestic Abuse) Form CV-402*** that will help you get your pet back and order that the respondent stop hurting your pet.

You can also ask the Court that they:

- Give you or the person who hurt you the temporary right to keep or use certain items of property.
- Allow you out of a family cell phone service contract plan using ***Wireless Cell Telephone Service Transfer in Injunction Case Form CV-437***. This form can be submitted at the Injunction Hearing.
- Order one or both of you not to sell, give away, destroy, or harm property.
- Order the Sheriff to provide protection while you get your things out of the home.
- Not to use or give out your address in any public papers.
- Allow you to keep and take care of a pet or companion animal.
- Order any other reasonable requests.

What happens after the hearing? How long am I protected?

The RO describes your safety rights. Read it carefully. If you move, tell the Court and the police your new address. The Order says how long the RO can last. It can last up to 4 years in most cases. If the court finds a substantial risk that the respondent may commit homicide or sexual assault against you, the injunction could be granted for 10 years. You can ask the Court to extend the RO when it is going to expire. The Court may issue a renewal order.

Does a restraining order make it illegal for the abuser to have a gun?

Yes. It is illegal for a person to have a gun if there is a Domestic Abuse RO against him or her.

You can let the Court and the police know what guns the respondent has by filling out the ***Petitioner's Statement of Respondent's Possession of Firearms Form CV-801***. The form asks you to list all the guns the respondent owns and has access to. The respondent will be able to see your list of the guns after it's filed. Describe the guns the best you can. If you do not know what guns the abuser has, you can say you are unsure on the form. If the abuser does not have access to any guns, you can still fill out the form but you do not have to list anything.

Important! This form is optional. You do NOT have to fill out this form if you do not feel safe telling the Court what guns the respondent has.

If you don't want the respondent to know you are filing the form about turning in his or her guns, you can keep the form secret until right before the Injunction Hearing starts. You can do this by not turning the ***Petitioner's Statement of Respondent's Possession of Firearms Form CV-801*** in with the TRO forms that will be served, and instead bringing it with you to the Injunction Hearing. You can do this because this form does not have to be served 24-48 hours before the hearing like the TRO forms do.

If the Judge grants your RO in the Injunction Hearing and the Court orders the abuser to turn over all guns, it's a good idea to call the courthouse to see if he or she actually turned them all over to the police.

To keep you safe when there are guns involved, it is a good idea to talk to an attorney, Embrace or the Clerk of Courts about the gun surrender forms and safety.

Does a restraining order affect custody?

Yes. In future custody hearings, the court should take the RO into account, even if the RO is from a court in a different state.

What can I do if the respondent violates the restraining order?

If the respondent violates the RO by threatening, harming, or contacting you, **call the police or sheriff right away**. The police should arrest him or her. The police do not have to see the assault or threat, but they do need to see a copy of the RO. **Keep a copy with you at all times!**

Violating the RO is a crime, and the respondent can get up to 9 months in jail and up to \$10,000 in fines. The abuser can also be punished for any other crimes they commit while violating the RO. Having a weapon may add to the punishment.

What if I let the respondent into my home?

You do not violate the RO by letting the respondent into your home. However, you may be fined by the court. If the abuser harms you, won't leave, or threatens you, the RO is still there for you to use. In fact, the abuser violates the order by coming into your home, even if invited. **But, for your own safety, do not invite him or her in!**



Crisis Hotline: 1-800-924-0556
Text line: 715-532-6976
Safe Shelter: 107 Lindoo Avenue, Ladysmith

Can I get a restraining order if I just moved to Wisconsin?

Yes. There are no residency rules for getting a RO.

Is the restraining order good in other states?

Yes. If you move to a new state, file a copy of your RO at the courthouse of your new area and take a copy to the local police. Even if you do not file the RO or take a copy to the police, the new state should still enforce your order.

This fact sheet is legal information NOT legal advice. See a lawyer for advice.

***If you have questions about restraining orders or your safety, call Embrace at 1-800-924-0556.
No one deserves to be hurt or abused. Call Embrace if you want to talk about your safety.***

Call 911 if there is an emergency.

Harassment Restraining Orders

You can get a restraining order to prevent harassment in situations where you can't get a Domestic Abuse Restraining Order because of relationship requirements or if the abuse doesn't meet the Wisconsin legal guidelines for a Domestic Abuse Restraining Order. For a Harassment Restraining Order, the relationship between you and the harasser does not matter. The harasser may be a stranger, a neighbor, or a co-worker.

"Harassment" means someone is repeatedly doing things which harass or intimidate you and that serve no legitimate purpose. This can be things like threatening to hurt you, contacting you repeatedly, following you and going to places where you will be, or repeatedly mailing or delivering objects to you. Harassment can also be physical harm such as striking, shoving, kicking, sexual assault or unwanted sexual contact, other physical contact, or repeatedly damaging your property. Harassment also includes stalking which is intentional and repeated behaviors that cause you to be emotionally distressed, scared or possibly injured.

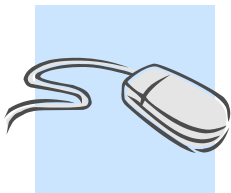
Getting a Harassment Restraining Order is like getting a Domestic Abuse Restraining Order, only the forms you file are a little different.

To file a Harassment TRO:

You can go to or call Embrace and tell them you want to file a Harassment Restraining Order. The staff may give you the forms you need to file. Embrace may be able to help you understand the forms and assist you in writing your statement. You can also go to the Clerk of Court's office to receive copies of the forms to be filled out.

OR

You can fill out and print the forms online, OR you can print them and fill them in by hand.



- Go to www.wicourts.gov
- Click on "Forms"
- Click on "Circuit Court"
- Click on "Civil"
- Click on "Harassment Restraining Orders/Injunctions" to get the forms for TROs and ROs:

- Fill out ***Petition for Temporary Restraining Order and/or Petition and Motion for Injunction Hearing (Harassment) Form CV-405*** and ***Confidential Address Information Form CV-502*** (this form keeps your information confidential from the public and gives your contact information to the court), and the ***Sheriff's Department Process Service Information Sheet*** (this form helps the Sheriff's office serve the respondent).
 - You may also need to fill out the top sections of ***Temporary Restraining Order and Notice of Injunction Hearing (Harassment) Form CV-406*** and ***Notice and Order for Injunction Hearing When Temporary Restraining Order is Not Issued (Harassment) Form CV-449***.
 - If there are guns in the respondent's home, you may fill out ***Petitioner's Statement of Respondent's Possession of Firearms Form CV-801***.
 - You may complete ***Petition for Waiver of Fees and Costs – Affidavit of Indigence Form CV-410A*** and the top section of ***Order on Petition for Waiver of Fees and Costs Form CV-410B*** to have fees waived if you are low-income.

**Contact the Clerk of Courts for more information about which forms need to be filed for a TRO and RO.*



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Fill in the information blanks at the top of the forms, mark the boxes you want, and write your statement about the abuse. You can handwrite or type your statement on a separate piece of paper if you need to. Wait to sign your name on the forms until you are in front of a certified notary public. The notary public will need some form of photo identification to prove you are the person signing your name. The forms can be notarized at the Clerk of Courts. The Harassment Order filing fees are \$164.50 and the service fees are \$65.00. You may complete **Petition for Waiver of Fees and Costs – Affidavit of Indigence Form CV-410A** to have fees waived if you are low-income.

This fact sheet is legal information NOT legal advice. See a lawyer for advice.

If you have questions about restraining orders or your safety, call Embrace at 1-800-924-0556. No one deserves to be hurt or abused. Call Embrace if you want to talk about your safety.

Call 911 if there is an emergency.