

Domestic Abuse Temporary Restraining Order and Injunction Checklist:

Wis. Stat. § 813.12

This document, created by End Domestic Abuse Wisconsin – the Wisconsin Coalition Against Domestic Violence Legal Department, does not constitute legal advice.

1. The petitioner (person filing the petition) and the respondent (person whom the petition is filed against) must be 18 years of age or older. See §§ [813.12\(1\)\(am\)](#), [\(5\)\(a\)2](#); and [48.02\(1d\)](#).

2. What relationship must exist between the petitioner and the respondent? See §§ [813.12\(1\)\(am\)](#), [813.12\(5\)\(a\)1](#).

- Adult Family Member (spouse, parent, child or person related by blood or adoption); **or**
- Adult Household Member (currently or formerly reside with person); **or**
- Adult Former Spouse; **or**
- Adult with whom person has a child in common; **or**
- Adult with whom have or have had a dating relationship (romantic or intimate social relationship, not casual or business-related); **or**
- Respondent is an adult caregiver to the adult petitioner. **Also,**
- An adult guardian of an incompetent individual may file for the petitioner if petitioner and respondent have one of above relations.

3. What type of abuse must be alleged in the petition to obtain a TRO or injunction? See [§813.12\(1\)\(am\)](#).

- Intentional infliction of physical pain, physical injury or illness; **or**
- Intentional impairment of physical condition; **or**
- Violation of 1st, 2nd or 3rd degree sexual assault under [§940.225](#); **or**
- Stalking under [§940.32](#) and [§813.12\(1\)\(am\)\(4\)](#)
- Damage to petitioner's property under [§943.01](#); **or**
- Threat to engage in any of the above five behaviors/conduct.
- In addition, the **TRO must** allege imminent danger of harm per case law.

NOTE: A petitioner can also request: 1) respondent not be allowed to engage in abuse of a household pet; 2) order from court to allow petitioner out of family wireless phone service contract plan. See [§813.12\(3\)\(a\)](#) and [§813.12\(4g\)](#).

4. Where can a domestic abuse petition be filed? See [§801.50\(5r\)](#).

- County where respondent resides; **or**
- County where petitioner resides; **or**
- County where cause of action arose (where incident occurred); **or**
- County where petitioner is temporarily residing.

5. What will it cost to file a domestic abuse petition? See §§ [814.61\(1\)\(d\)](#) and [814.70](#).

- There is no fee to file or serve the petition or for cost of travel for the sheriff's department to serve; petitioner pays if a **private** process server.
- If service by publication is needed, the petitioner pays to publish summary.

6. What is a temporary restraining order? How does one file a TRO petition?

See §[813.12\(3\)\(c\)](#).

A TRO is an order in effect up to 14 days until the "permanent" order, known as an injunction, is granted. Go to the courthouse and ask for a domestic abuse TRO petition. Forms are also available at:

https://www.wicourts.gov/forms1/circuit/ccform.jsp?FormName=&FormNumber=&beg_date=&end_date=&StatuteCite=&Category=11&SubCat=Domestic%20Abuse%20Restraining%20Orders/Injunctions. Fill out the petition. Take the petition to a judge/court commissioner, who is to sign it if the petition contains one of the relationships and one or more types of abuse

described above. You can appear *ex parte* (one party only) to file a TRO. You may wish to seek help from a domestic abuse program to file.

7. What will happen at the injunction hearing? See §§ [813.12\(3\)](#) and [\(4\)](#).

The respondent must receive a copy of the petition which contains **notice of the hearing**, and may, but is not required, to appear. The parties can appear on their behalf, with counsel or with an advocate. Most courts allow both parties to **testify and cross-examine** the other party. Based on what one or both parties say at the hearing, the court will deny or grant an injunction for up to 4 years.