

## **Child Abuse Temporary Restraining Order and Injunction Checklist:**

### **Wis. Stat. § 813.122**

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#### **1. Who may petition for a child abuse restraining order?**

See [§813.122\(2\)](#) for 1-4, [§48.235\(4\)\(a\)6](#) for 5, and [§48.25\(6\)](#) for 6.

1. Child victim
2. Parent of child victim
3. Stepparent of child victim
4. Legal guardian of child victim
5. Guardian ad litem, if a proceeding is brought under [§48.13](#) [child alleged to be in need of protection or services - CHIPS]
6. Any party to or any governmental or social agency involved in the proceeding, if a proceeding is brought under [§48.13](#) [child alleged to be in need of protection or services]

#### **2. What type of abuse must be alleged in the petition to obtain the TRO or injunction?**

See [§§813.122\(1\)\(a\)](#), [813.122\(4\)\(a\)](#), [813.122\(5\)\(a\)](#), [48.02\(1\)](#).

1. Physical injury inflicted on child by other than accidental means; or
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]; or
3. Sexual exploitation of child; or
4. Permitting, allowing or encouraging child to engage in prostitution; or
5. Causing a child to view or listen to sexual activity; or
6. Causing a child to expose or exposing genitals or pubic area to child; or
7. Emotional damage; or
8. Manufacturing methamphetamine when the child is physically present, on the premises, or under any circumstances where the child can smell, hear or see.
9. Threat to engage in any conduct above.

**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 [§813.122\(4\)\(a\)](#) and [§813.122\(5c\)](#).

#### **3. Where can the petition be filed? See [§801.50\(5s\)](#).**

In the county where petitioner resides; county where respondent resides; or county where cause of action arose (where the incident occurred).

#### **4. What will it cost to file a child abuse restraining order? See [§§814.61\(1\)\(d\)](#) and [814.70](#).**

There is no fee to file the petition, serve the petition or for the cost of travel to serve the petition.

**5. What is a Temporary Restraining Order (TRO)?** [§813.122\(4\)\(c\)](#).

A TRO is the first step to obtain a “permanent” order, known as an injunction. The petitioner files a TRO petition, and if granted, the TRO is effective until the date an injunction is issued. The injunction hearing is held within 14 days of getting the TRO, unless an extension is granted.

**6. How does one file a TRO petition?** [§813.122\(2\)](#).

Go to the courthouse in any county and ask for a child abuse petition. Forms are also available at:

[https://www.wicourts.gov/forms1/circuit/ccform.jsp?FormName=&FormNumber=&beg\\_date=&end\\_date=&StatuteCite=&Category=4&SubCat=Child%20Abuse%20Restraining%20Orders](https://www.wicourts.gov/forms1/circuit/ccform.jsp?FormName=&FormNumber=&beg_date=&end_date=&StatuteCite=&Category=4&SubCat=Child%20Abuse%20Restraining%20Orders). Fill

out the petition. As directed, take the petition to a judge or family court commissioner, who is to sign it if one of the relationships described exists and one or more types of abuse listed above has occurred.

**7. Does Chapter 813.122 say anything about a guardian ad litem?**

Yes. The court on its own motion or on the motion of any party may order that a guardian ad litem be appointed for the child victim. [§813.122\(3\)\(b\)1m](#). The court **shall** appoint a guardian ad litem if the respondent is a parent of the child victim. [§813.122\(3\)\(b\)2m](#). 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.

[§48.235\(8\)\(c\)3](#).