

WISCONSIN CIVIL PROTECTION ORDERS

Survivors across the country seek safety through civil protection orders. Courts use these vital orders to issue stay away orders, or order an abuser pay medical bills, and even make temporary custody decisions. The remedies are important, but jurisdictions often have several types of orders and the distinctions are not always clear. This resource provides a brief overview of the different types of civil protection orders in each jurisdiction, answering vital questions such as: who can apply; and who can be restrained? The orders included in this resource are limited to those where a survivor can apply themselves, other protective measures may exist in your jurisdiction—reach out to VRLC’s TA team if you have questions!

In Wisconsin, there are 4 types of civil protection orders:

- ☐ **Domestic Violence Restraining Orders** are available for adult individuals seeking protection from domestic violence committed by a family or household member, including someone with whom the individual is in a dating relationship (Wis. Stat. § 813.12).
- ☐ **Child Abuse Restraining Orders** are available for minors seeking protection from abuse or sexual assault (Wis. Stat. § 813.122).
- ☐ **Restraining Orders for Individuals at Risk** are available for at-risk adults seeking protection from abuse. At-risk adults include certain adults over 60 and certain adults with disabilities (Wis. Stat. § 813.123).
- ☐ **Harassment Restraining Orders** are available for individuals seeking protection from harassment, which includes sexual assault, by any individual (Wis. Stat. § 813.125).

DOMESTIC ABUSE RESTRAINING ORDERS AND INJUNCTIONS

Who can apply?	(1) A person who was subject to domestic abuse; or (2) the guardian of an individual adjudicated incompetent in Wisconsin who was subject to domestic abuse. <i>Wis. Stat. § 813.12(5)(d).</i> Domestic abuse is defined as any of the following inflicted by an adult with a specific relationship to petitioner: • Intentional infliction of physical pain, injury, or illness; • Intentional impairment of physical condition; • Sexual assault; • Stalking; • Damage to the property belonging to the individual; or • A threat to engage in any of this conduct. <i>Wis. Stat. § 813.12(1)(am).</i> See “Who can be Restrained?” for the specific eligible relationships.
Can minors apply?	No. Domestic abuse is defined as between adults. <i>Wis. Stat. § 813.12(1)(am).</i>
Who can be restrained?	The respondent must be an: • Adult family member; • Adult household member; • Adult caregiver; • Adult former spouse; • Adult individual from a dating relationship; or • Adult individual with whom the person has a child. <i>Wis. Stat. § 813.12(1)(am).</i>

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DOMESTIC ABUSE RESTRAINING ORDERS AND INJUNCTIONS

Who can be restrained?	Family member is a spouse, parent, or a child or person related by blood or adoption. <i>Wis. Stat. § 813.12(1)(b).</i> Household member is a person currently or formerly residing in a place of abode with another. <i>Wis. Stat. § 813.12(1)(c).</i>
What types of relief may a court order?	A temporary restraining order may include the following provisions: • Prohibit acts of domestic abuse against the petitioner; • Exclude respondent from petitioner's residence or location occupied by the petitioner; • Prohibit respondent from contacting or causing any person to contact petitioner (except petitioner's attorney or a law enforcement officer); • Prohibit respondent from removing, hiding, damaging, harming, or mistreating, or disposing of, a household pet; • Allow the petitioner or someone acting on petitioner's behalf to retrieve a household pet; • Allow petitioner use of residence owned by respondent for reasonable amount of time; or • Any other appropriate remedy. <i>Wis. Stat. § 813.12(3)(a), (3)(am).</i> A final order against the respondent may include all of the above and also: • Order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number; or • Require respondent to surrender firearms. <i>Wis. Stat. § 813.12(4)(a), (4)(am), (4g); Wis. Stat. § 813.12(4m).</i>

DOMESTIC ABUSE RESTRAINING ORDERS AND INJUNCTIONS

How long does the order last?	A temporary restraining order remains in effect until a hearing is held on issuing an injunction, which must occur within 14 days. <i>Wis. Stat. § 813.12(3)(c).</i> Following a hearing, the court can issue an injunction. An order can typically last for up to 4 years. <i>Wis. Stat. § 813.12(4)(c).</i> An order can be granted for up to 10 years if there is a substantial risk that respondent will commit intentional homicide or sexual assault. <i>Wis. Stat. § 813.12(4)(d)(1).</i> If the respondent has been convicted of sexual assault against the petitioner, a judge can issue a permanent, lifetime order if requested. <i>Wis. Stat. § 813.12(4)(d)(1m).</i>
Can the order be renewed?	Yes, if the petitioner states that an extension is necessary to protect them. The order can only be extended up to the maximum allowable time considering the circumstances (i.e., a typical order cannot be extended beyond 4 years). <i>Wis. Stat. § 813.12(4)(c), (d).</i>
Is a hearing with the respondent required?	Neither a hearing, nor notice to the respondent is required for a temporary restraining order. <i>Wis. Stat. § 813.12(2m), (3)(b).</i> A hearing with respondent is required for a final order. <i>Wis. Stat. § 813.12(2m), (4)(a)2.</i>

CHILD ABUSE RESTRAINING ORDERS AND INJUNCTIONS

Who can apply?	The child victim of abuse or a parent, stepparent, or legal guardian of such a child. <i>Wis. Stat. § 813.122(2)(a).</i> Abuse is defined as: • Physical injury inflicted on a child by other than accidental means; • Sexual intercourse or sexual contact; • Emotional damage for which a guardian has been unable to obtain treatment or take steps or ameliorate (for reasons other than poverty). <i>Wis. Stat. § 48.02(1)(a), (b - gm).</i>
Can minors apply?	Yes, a minor child may file on their own if they are the victim of abuse. <i>Wis. Stat. § 813.122(2)(a).</i>
Who can be restrained?	Anyone regardless of age or relationship to the petitioner. The respondent is someone who is alleged to have engaged in, or based upon prior conduct may engage in, abuse of the child victim. <i>Wis. Stat. § 813.122(6)(a)3.</i>
What types of relief may a court order?	A temporary restraining order may include the following provisions: • Exclude respondent from the child victim's residence or any other premises; • Prohibit contact with the child (except the child's or another party's attorney); • Prohibit respondent from interfering or mistreating a household pet; • Allow the petitioner or a family member acting on his or her behalf to retrieve a household pet. <i>Wis. Stat. § 813.122(4)(a).</i> An injunction (a final order) against the respondent may include all of the above and also: <i>continued on next page</i>

CHILD ABUSE RESTRAINING ORDERS AND INJUNCTIONS

What types of relief may a court order?	• Order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number; or • Require the respondent to surrender firearms <i>Wis. Stat. § 813.122 (5)(a), (5)(c); Wis. Stat. § 813.122(5m).</i> If the respondent is the child's parent, a judge will modify the order to allow for reasonable visitation unless such visitation would endanger the child's physical, mental, or emotional health. Contact is defined as: Knowingly touching, meeting, communicating, or being in visual or audio contact with the child victim. <i>Wis. Stat. § 813.122(7).</i>
How long does the order last?	A temporary restraining order remains in effect until a hearing is held on issuing an injunction, which must occur within 14 days <i>Wis. Stat. § 813.122(4)(c).</i> Following a hearing, the court can issue an injunction. Typically, a Judge can issue an injunction for up to 2 years, which can be extended for another 2 years or until the child turns 18 (whichever comes first), if the petitioner seeks extension for the child's safety. <i>Wis. Stat. § 813.122(5)(d).</i> A judge can issue an injunction for up to 5 years if there is a substantial risk that respondent will commit intentional homicide or sexual assault, after which an extension must be requested. <i>Wis. Stat. § 813.122(5)(dm)1, 2.</i>

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CHILD ABUSE RESTRAINING ORDERS AND INJUNCTIONS

How long does the order last?	A judge can issue a permanent injunction if respondent has been convicted of sexual assault against the petitioner. <i>Wis. Stat. § 813.122(5)(dm)1m.</i>
Can the order be renewed?	Yes, if petitioner states that it is necessary to protect the child victim, the court must extend the injunction for 6 months or until the child turns 18, whichever occurs first. The court may extend it for up to 2 years, or until the child turns 18, whichever occurs first. <i>Wis. Stat. § 813.122(5)(d).</i> The court may also extend the injunction for up to 5 years, or make it permanent if there is a substantial risk that respondent will commit intentional homicide or sexual assault, after which an extension must be requested. <i>Wis. Stat. § 813.122(5)(dm)1, 2.</i> A judge can issue a permanent injunction if respondent has been convicted of sexual assault against the petitioner. <i>Wis. Stat. § 813.122(5)(dm)1m.</i>
Is a hearing with the respondent required?	Neither a hearing, nor notice to the respondent is required for a temporary restraining order. <i>Wis. Stat. § 813.122(3), (4).</i> A hearing with respondent is required for an injunction. Most other persons are excluded from the hearing. <i>Wis. Stat. § 813.122(3), (5); § 813.122(3)(bp).</i>

RESTRAINING ORDERS AND INJUNCTIONS FOR INDIVIDUALS AT RISK

Who can apply?	Any of the following may petition for this type of protective order to protect an eligible individual from abuse, neglect, self-neglect, or financial exploitation: • An elder adult at risk on their own behalf; • An adult at risk on their own behalf; • Any person acting on behalf of an individual at risk; • An elder-adult-at-risk agency on behalf of an individual at risk; or • An adult-at-risk agency on behalf of an individual at risk. <i>Wis. Stat. § 813.123(2)(a).</i> Elder adult at risk is defined as: Any person age 60 or older. <i>Wis. Stat. § 46.90(1)(br).</i> Adult at risk is defined as: Any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs. <i>Wis. Stat. § 55.01(1e).</i> Abuse is defined as: Physical abuse, emotional abuse, sexual abuse, treatment without consent, unreasonable confinement or restraint. <i>Wis. Stat. § 813.123(1)(a); Wis. Stat. § 46.90(1)(a).</i>
Can minors apply?	No, minors are ineligible for this form of protection.

RESTRAINING ORDERS AND INJUNCTIONS FOR INDIVIDUALS AT RISK

Who can be restrained?	Person who: • Engaged in, or threatened to engage in, the abuse, financial exploitation, neglect, stalking, or harassment of an individual at risk; • Mistreated the person at risk's animal; or • Interfered with or, based on prior conduct of the respondent, may interfere with an abuse investigation or the delivery of protective services to the individual at risk. <i>Wis. Stat. § 813.123(6)(c).</i>
What types of relief may a court order?	A temporary restraining order may include the following provisions: • Prohibit respondent from interfering with an abuse investigation of the individual at risk, or the delivery of protective services to the individual at risk; • Require respondent to cease engaging in, or threatening to engage in, the abuse, financial exploitation, neglect, stalking, or harassment of an individual at risk or mistreatment of an animal; • Prohibit respondent from interfering with or mistreating the animal of a person at risk; • Allow the person or their guardian or a family or household member to retrieve the household pet; • Exclude respondent from the residence of the individual at risk or any other location occupied by the individual at risk; • Prohibit respondent from contacting or causing any person other than a party's attorney or a law enforcement officer to contact the individual at risk; or • Any other appropriate remedy. <i>Wis. Stat. § 813.123(4)(ar).</i> An injunction against the respondent may include all of the above and also: <i>continued on next page</i>

RESTRAINING ORDERS AND INJUNCTIONS FOR INDIVIDUALS AT RISK

What types of relief may a court order?	• Order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number; and • Require the respondent to surrender firearms. <i>Wis. Stat. § 813.123(5)(ar), (5c); Wis. Stat. § 813.123(5m).</i>
How long does the order last?	A temporary restraining order remains in effect until a hearing is held on issuing an injunction, which must occur within 14 days. <i>Wis. Stat. § 813.123(4)(c).</i> Following a hearing, the court can issue an injunction. Typically, a Judge can issue an injunction for up to 4 years, after which an extension must be requested. The extension can be from 6 months to up to 2 years, if the petitioner states it is necessary for the safety of the individual at risk. <i>Wis. Stat. § 813.123(5)(c).</i> A judge can issue an injunction for up to 10 years if there is a substantial risk that respondent will commit intentional homicide or sexual assault, after which an extension must be requested. <i>Wis. Stat. § 813.123(5)(d).</i> A judge can issue a permanent injunction if respondent has been convicted of sexual assault against the petitioner. <i>Wis. Stat. § 813.123(5)(d)1m.</i>
Can the order be renewed?	Yes, when an injunction expires, the court must extend it to 6 months if the petitioner states that an extension is necessary to protect the individual at risk. The court may extend the injunction for up to 2 years. <i>Wis. Stat. § 813.123(5)(c).</i>

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RESTRAINING ORDERS AND INJUNCTIONS FOR INDIVIDUALS AT RISK

Can the order be renewed?	The court may extend the injunction for up to 10 years, or make it permanent, if there is a substantial risk that respondent will commit intentional homicide or sexual assault, after which an extension must be requested. <i>Wis. Stat. § 813.123(5)(d).</i> A judge can issue a permanent injunction if respondent has been convicted of sexual assault against the petitioner. <i>Wis. Stat. § 813.123(5)(d)1m.</i>
Is a hearing with the respondent required?	Neither a hearing, nor notice to the respondent is required for a temporary restraining order. <i>Wis. Stat. § 813.123(3)(a); Wis. Stat. § 813.123(4)(b).</i> A hearing with respondent is required for an injunction. <i>Wis. Stat. § 813.123(3)(a); Wis. Stat. § 813.123(5)(a)2.</i>

HARASSMENT RESTRAINING ORDERS AND INJUNCTIONS

Who can apply?	The person who was subject to harassment. If the person subject to harassment is a child, the child or the child's parent, stepparent, or legal guardian may be a petitioner. <i>Wis. Stat. § 813.125(2)(b).</i> Harassment is defined as: • Subjecting a person to physical contact; • Engaging in abuse or sexual assault; • Stalking; or • Threatening to engage in any of the above or engaging in a course of conduct to harass or intimidate which serves no legitimate purpose. <i>Wis. Stat. § 813.125(1)(am)4.</i>
Can minors apply?	Yes, a minor child may file on their own if they are the victim of the harassment. <i>Wis. Stat. § 813.125(2)(b).</i>
Who can be restrained?	Any person who is alleged to have engaged in harassment with intent to harass or intimidate the petitioner. <i>Wis. Stat. § 813.125(3)(a)2.</i>
What types of relief may a court order?	A temporary restraining order may include the following provisions: • Prohibit respondent from contacting the petitioner; • Require respondent cease or avoid the harassment of another person; • Exclude respondent from petitioner's residence or any premises temporarily occupied by the petitioner; <i>continued on next page</i>

HARASSMENT RESTRAINING ORDERS AND INJUNCTIONS

What types of relief may a court order?	• Prohibit respondent from interfering with or mistreating a household pet; • Allow petitioner or a family or household member of the petitioner acting on his or her behalf to retrieve a household pet. <i>Wis. Stat. § 813.125(3)(a).</i> An injunction may require all of the above and also: • Order a wireless telephone service provider to transfer to the petitioner the right to continue to use a telephone number; and • Require the respondent to surrender firearms. <i>Wis. Stat. § 813.123(4)(a); Wis. Stat. § 813.125 (4g); Wis. Stat. § 813.125(4m).</i>
How long does the order last?	A temporary restraining order remains in effect until a hearing is held on issuing an injunction, which must occur within 14 days. <i>Wis. Stat. § 813.125(3)(c).</i> Following a hearing, the court can issue an injunction for up to 4 years. <i>Wis. Stat. § 813.125(4)(c).</i> A judge can issue an injunction for up to 10 years if there is a substantial risk that respondent will commit intentional homicide or sexual assault. <i>Wis. Stat. § 813.125(4)(d).</i> A judge can issue a permanent injunction if respondent has been convicted of sexual assault against the petitioner. <i>Wis. Stat. § 813.125(4)(d)1m.</i>

HARASSMENT RESTRAINING ORDERS AND INJUNCTIONS

Can the order be renewed?	Yes, if there is a substantial risk that respondent will commit intentional homicide or sexual assault, the court may extend the injunction for up to 10 years, and if the respondent has been convicted of sexual assault against the petitioner, the court can make the injunction permanent. <i>Wis. Stat. § 813.125(4)(d)1, 1m.</i>
Is a hearing with the respondent required?	Neither a hearing, nor notice to the respondent is required for a temporary restraining order. <i>Wis. Stat. § 813.125(2m), (3)(b).</i> A hearing with respondent is required for an injunction. <i>Wis. Stat. § 813.125(2m), (4).</i>

HOW TO APPLY

Court forms are available at the courthouse and online at:

<https://www.wicourts.gov/forms1/circuit/formcategory.jsp?Category=4>

The Wisconsin Court System also has a forms assistant to assist electronically filling out a petition for restraining order for domestic abuse or harassment available at:

<https://www.wicourts.gov/services/public/selfhelp/restord.htm>

Forms can be filed where petitioner lives permanently or temporarily, where respondent lives, or where the incident(s) occurred.

SCAN ME!



For specific questions about how to use this guide, or if you have any other questions, VRLC is here to help!

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