

How to get a domestic abuse restraining order in Wisconsin

See below . . .

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Definitions

Restraining Order - a court order that orders someone not to hurt you, to stay away from you, move out of the house, have no contact with you, or stop harassing you.

Temporary Restraining Order (TRO) - a term used in Wisconsin to refer to a restraining order that only lasts a short period of time, generally less than two weeks. If a TRO is granted, it can provide short-term protection while waiting for the injunction hearing.

Injunction - a term used in Wisconsin to refer to a restraining order that lasts for a longer period of time than the TRO. Injunctions usually last 2 to 4 years, but can last up to 10 years depending on the facts of the case.

Domestic Abuse

includes the following actions:

- intentionally causing physical pain, physical injury or illness
- intentionally harming your physical condition
- destruction of property belonging to you
- sexual assault
- stalking
- threatening to do any of the above acts

if done by:

- a family or household member
- a caregiver
- a former spouse
- a person with whom the individual has or had a dating relationship
- a person with whom the individual has a child in common

Domestic Abuse Restraining Order (DARO) - a court order intended to protect individuals from harm or harassment by a family member, household member, or someone they have a close relationship with, such as a spouse or partner.

Service of Process - the way you officially tell someone else about a court hearing. Where personal safety is a concern, using the sheriff or a private process server is the safest way to serve court papers.

What is a Domestic Abuse Restraining Order?

A domestic abuse restraining order (DARO) is a court order intended to protect individuals from harm or harassment by a family member, household member, or someone they have a close relationship with, such as a spouse or partner. To obtain a restraining order in Wisconsin, you must show that you reasonably believe you are in danger of harm if the abuser is not restrained from contact.

Someone who is under age 18 cannot request a DARO and you cannot file a DARO against someone who is under 18. A restraining order or injunction only protects the person named in the order from the individual the order is against; this means that a DARO for an individual does not provide protection to their children or other family members.

Determine Eligibility

If you are an adult, you may be able to file against any of the following adults who have committed domestic abuse against you:

- a current or former spouse;

- a family member (parent, adult child, or other person related to you by blood or adoption)
- a person with whom you currently live or formerly lived;
- anyone with whom you have had a child, even if you were never married to or in any type of relationship with him/her;
- someone you are dating or have dated; or
- a caregiver.

You can also file for a domestic abuse injunction on behalf of an incapacitated adult if you are that adult's legal guardian.

If you are being abused or harassed by someone who does not fit into one of the above-listed relationships, there are other types of orders that you may be eligible for.

Gather Necessary Information

In order to fill out the initial paperwork, you will want to gather the following information:

- Details of the abuse (dates, times, locations, specific incidents)
- Information about the abuser (name, address, date of birth, physical description)

For the injunction hearing, you will want to gather the following information:

- Any evidence you may have (photos, medical records, police reports)
- Any witnesses to the abuse who are willing to testify about what they saw

Complete and File the Required Forms

Often, people choose to file for a TRO to protect them from abuse while they wait for the injunction hearing. You must prove to the court that you are in imminent danger of continued domestic abuse in order for the court to grant the TRO.

You can choose to skip filing for a TRO and file directly for an injunction. This means there will not be a restraining order in place while you wait for the injunction hearing.

- [Petition for Temporary Restraining Order and/or Petition and Motion for Injunction Hearing](#)
 - On the petition, you will be the “petitioner” and the abuser will be the “respondent.”
 - In the space provided for explaining why you want the restraining order, write about the most recent incident of violence along with other incidents that have happened in the past. Use specific language that fits your situation, such as slapping with an open hand, hitting with a closed fist, grabbing with one or two hands, threatening, etc. Include details and dates, if possible. The space provided on the official court form for details is short, so you may want to provide the details on a separate piece of paper and file that paper with the Petition. You may want to use bullet points to visually break up your statement and organize the list by date of incident.
 - If you choose to file for a TRO, you do not need to notify the person you are seeking the order against before you file the Petition or talk to the court. The person you are trying to get the order against does not get a chance to talk to the court before the court decides whether to grant you the TRO.
 - You do not need to request a TRO in order to request an injunction.
- [Confidential Address Information](#)
- [TRO and Notice of Injunction Hearing](#)
 - Complete section with your name, date of birth, relationship to respondent, and respondent's name, address, description and weapons information.
- [Notice and Order for Injunction Hearing when TRO not issued](#)
 - Complete section with your name, date of birth, respondent's name and address
- [Respondent's Information for Service by Sheriff](#)

These forms are available online on the [Wisconsin Court System's website](#) or in our [Domestic Abuse Restraining Order guide](#), at the courthouse, or at many domestic abuse agencies.

Submit the completed forms to the Clerk of Court during business hours. There is no filing fee for a domestic violence restraining order.

A judge or court commissioner will review your petition

When you tell the clerk of courts that you are filing a petition for a TRO and/or injunction, the clerk of courts will usually bring your paperwork to the judge or court commissioner to review right away. The clerk may ask you to wait for the judge or commissioner to review the paperwork. The judge or court commissioner may want to ask you questions about your petition.

If the court official believes you are in on-going danger, s/he may give you a TRO which is good for 14 days, or until your full court hearing. The court should fill out and return to you the TRO and Notice of Injunction Hearing (see above), which you need to make sure is filed with the court and served on the person named in the TRO (see below).

Even if a TRO is not granted, the court will still give you a hearing date for the injunction.

Service of Process

The clerk of court will forward the TRO and Notice of Hearing to the sheriff to serve on the respondent. (Or you can choose to use a private process server at your own expense.) Service is important - your case won't move forward if the other person is not or cannot be served - so it is in your best interest to make sure everything gets served.

You can register to be notified when the TRO has been served by law enforcement by calling 1-855-948-7648 or visiting <https://registervpo.com/RegisterVPO/mapInitAction.do>. On the website, click Wisconsin on the drop-down menu, then 'Find a Protective Order' to search for the protective order. You will need the following information:

- 12 digit CCAP case number (for example: 2017CV000065)
- County that issued the TRO
- Respondent's FIRST and LAST name

Do not try to serve the abuser yourself.

If the respondent does not receive notice of the hearing, the hearing may be rescheduled if you request it. However, if you are unable to have the abuser served because s/he is avoiding service (for example, by hiding from the sheriff), you can

file an affidavit in court explaining all of the attempts that were made at service. At that point, the judge or circuit court commissioner can allow you to serve the respondent by publication in a newspaper and by mailing or faxing a copy to the respondent if you know or can find out his/her address or fax number. You can talk to the clerk of court or to someone at a domestic violence organization to try to get help with service by publication.

Note: Be sure to obtain written proof from law enforcement that the restraining order was served because the court will ask for that proof at your full court hearing. It is your responsibility to contact the sheriff to make sure that the papers were served. This proof of service is especially important if the abuser does not show up in court.

Prepare for the Injunction Hearing

Continue to gather any new evidence that may support your case.

If possible, arrange for any witnesses who can support your testimony to attend the hearing.

Attend the Injunction Hearing

An injunction hearing will be scheduled within 14 days of filing the petition.

During this hearing, both you and the abuser will have the opportunity to present evidence and testify.

You may bring witnesses and any evidence supporting your case. If you have photos, voicemails, other documents, or text messages, make sure you have them printed out with enough copies for the judge/commissioner and the other person.

Obtain the Final Restraining Order

If the judge finds sufficient evidence of abuse, they will issue a final restraining order, also known as an injunction, which can last up to four years and can be extended if necessary.

If the court denies the request for a TRO, is an injunction hearing still possible?

If the judge does not give you a TRO, you still can go forward with your request for a domestic abuse injunction (the long-term restraining order) as long as your case is not dismissed completely.

To request a hearing on the final injunction when you were not given a temporary restraining order, you will file the [Notice and Order for Injunction Hearing When TRO not Issued](#), which the court should have filled out and returned to you. Make sure it is filed and served on the person against whom you are trying to get the injunction.

[Domestic Violence Safety Family Law](#)

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