
Restraining Orders In Wisconsin

This document, created by the Wisconsin Coalition Against Domestic Violence (WCADV) Legal Department, does not constitute legal advice.

Please note: 1995 WI Act 306 creates a fifth type of restraining order - which is given full faith and credit - entitled a foreign protection order. Sec. 806.247(1)(b) describes a foreign protection order as any temporary or permanent injunction or order of a civil or criminal court of the United States, of an Indian tribe, or of any other state, which is issued to prevent abuse, bodily harm, communication, contact, harassment, physical proximity, threatening acts or violence by or to a person other than support or custody orders. Thus, all tribal injunctions now issued in Wisconsin are foreign protection orders.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
1. Who May Petition?	<p>1. Adult Family Member*</p> <p>2. Adult Household Member*</p> <p>3. Adult Former Spouse</p> <p>4. Adult with whom have child in common</p> <p>5. Adult with whom have or have had a dating relationship*</p> <p>6. Adult under a caregiver’s supervision *</p> <p>7. Adult guardian of an incompetent individual</p> <p>§§ <u>813.12(1)(am) & (5)(a)1</u></p> <p>NOTE: The petitioner must be the victim with the exception of the guardian for an incompetent person <u>§813.12(5)(a)1</u></p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, an adult is a person 18 years of age or older. <u>§48.02(1d)</u></p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, a child is a person who is less than 18 years of age. <u>§48.02(2)</u></p> <p>*See definitions on last pages</p>	<p>1. Child victim</p> <p>2. Parent of child victim</p> <p>3. Stepparent of child victim</p> <p>4. Guardian of child victim <u>§813.122(2)</u> for 1-4.</p> <p>5. Guardian ad litem in a matter involving a child found to be in need of protection or services. <u>§48.235(4)(a)6</u></p> <p>6. If a proceeding is brought under <u>§48.13</u> [child alleged to be in need of protection or services], any party to or any governmental or social agency involved in the proceeding. <u>§48.25(6)</u></p> <p>NOTE: As of 4/96, there are two forms for possible use when filing a child abuse TRO petition. Form CV-412 is most commonly used. Form JC-1690 is only used when the child victim is involved in a CHIPS (Children in Need of Protection or Services) action or when the respondent is a child.</p>	<p>1. Individual at risk*</p> <p>2. Any person acting on behalf of an individual at risk, an elder-adult-at-risk agency*, or an adult-at-risk agency*</p> <p>3. If the petition is filed by a person other than the individual at risk, the petitioner shall serve a copy of the petition on the individual at risk. <u>§813.123(2)(a)</u></p> <p>Note: If anyone other than the individual at risk petitions for the restraining order, the court must appoint a guardian ad litem. (See question #34 below)</p> <p>*See definitions on last pages</p>	<p>1. Any person who has been harassed. The statute refers to the petitioner as "person" but does not specify whether petitioner must be an adult. The practice of allowing a child to petition varies from county to county. A parent may wish to bring an action on behalf of his/her minor child to be safe. A guardian ad litem should be appointed if the petitioner is a minor. Sec. <u>803.01(3)(a)</u>.</p> <p>2. Guardian ad litem in a matter involving a child found to be in need of protection or services. Sec. <u>48.235(4)(a)6</u></p> <p>3. If a proceeding is brought under Sec. <u>48.13</u> [child alleged to be in need of protection or services], any party or any governmental or social agency involved in the proceeding. Sec. <u>48.25(6)</u></p> <p>NOTE: As of 11/99, there are two forms for possible use when filing a harassment TRO/injunction petition. Form CV-407 is most commonly used. Form JC-1693 is only used when the child victim is involved in a CHIPS (Children in Need of Protection or Services) action or when the respondent is a child.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
<p>2. Against whom may the petitioner bring an action?</p>	<p>1. Adult Family Member* 2. Adult Household Member* 3. Adult Former Spouse 4. Adult with whom have child in common 5. Adult with whom have or have had a dating relationship* 6. Adult caregiver* §§ <u>813.12(1)(am)</u> & <u>(5)(a)2</u></p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, an adult is a person 18 years of age or older. <u>§48.02(1d)</u></p> <p>Except for investigation or prosecution of a crime, civil law or municipal ordinance, a child is a person who is less than 18 years of age. <u>§48.02(2)</u></p> <p>*See definitions on last pages</p>	<p>1. Although <u>§813.122</u> only uses the term respondent, changes made in the law clarify respondent can be an adult or a child who engages in child abuse. <u>§48.14(10)</u> & <u>§757.69(1)(g)</u></p> <p>2. Claim of emotional damage can be brought against parent, guardian, or legal custodian who has neglected, refused, or been unable for reasons other than poverty to obtain necessary treatment or take steps to ameliorate the symptoms. <u>§48.02(1)(gm)</u></p> <p>NOTE: If the respondent is a child, the court assigned to exercise jurisdiction under Chapter 48 (Children’s Code) has exclusive jurisdiction & will hear the TRO/injunction. <u>§48.14(10)</u></p> <p>NOTE: If the respondent is a child [or when the child victim is involved in a CHIPS (Children in Need of Protective Services) petition], petitioner should use Form JC-1690 rather than Form CV-412. This means the hearing will be in juvenile court, not civil court.</p>	<p>1. Person who has interfered with, or based on prior conduct of the person may interfere with, an investigation of the individual at risk, the delivery of protective services to the individual at risk under <u>§55.05</u>, the delivery of protective placement under <u>§55.06</u>, or the delivery of services to an elder adult at risk under <u>§46.90(5m)</u>;</p> <p>2. And that the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation*, neglect*, or self-neglect* has occurred, is occurring, or may recur.</p> <p>3. Person engaged in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation*, neglect, harassment*, or stalking* of an individual at risk or the mistreatment of an animal*. <u>§§ 813.123(4)(a)2 a.</u> & <u>(4)(a)2 b.</u></p> <p>*See definitions on last pages</p>	<p>1. Adult who engages in harassment. 2. Child who engages in harassment. Although <u>§813.125</u> only uses the term respondent, changes made in the law clarify respondent can be an adult or a child who engages in harassment. <u>§48.14(10)</u>, <u>§757.69(1)(g)</u> & 1993 WI Act 318, Section 11</p> <p>NOTE: If the respondent is a child, the court assigned to exercise jurisdiction under Chapter 48 (Children’s Code) has exclusive jurisdiction & will hear the TRO/injunction. <u>§48.14(10)</u>.</p> <p>NOTE: If the respondent is a child [or when the child victim is involved in a CHIPS (Children in Need of Protection or Services) petition], the petitioner should use Form JC-1693 rather than Form CV-407. This means the hearing will be in juvenile court, not civil court.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
3. What type of abuse must be alleged in the petition to obtain the TRO or injunction?	<p>1. Intentional infliction of physical pain, physical injury or illness</p> <p>2. Intentional impairment of physical condition</p> <p>3. Violation of 1st, 2nd or 3rd degree sexual assault under §§940.225 (1), (2) or (3)</p> <p>4. Intentional damage to physical property belonging to the individual (petitioner) under §943.01</p> <p>5. Threat to engage in conduct under 1, 2, 3, 4 §§ 813.12(1)(am), 943.01</p>	<p>1. Physical injury inflicted on child by other than accidental means; <i>or</i></p> <p>2. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault], §948.02 [1st, or 2nd degree sexual assault of child], <i>or</i> §948.025 [repeated acts of sexual assault]; <i>or</i></p> <p>3. Sexual exploitation of child; <i>or</i></p> <p>4. Permitting, allowing or encouraging child to engage in prostitution; <i>or</i></p> <p>5. Causing a child to view or listen to sexual activity; <i>or</i></p> <p>6. Causing child to expose or exposing genitals or pubic area to child; <i>or</i></p> <p>7. Manufacturing methamphetamines with a child physically present during the manufacture, in or on the premises of a child's home or in a motor vehicle located on the premises of a child's home, or under any other circumstances in which a reasonable person should have known that the manufacture would be seen, smelled, or heard by a child; <i>or</i></p> <p>8. Emotional damage; <i>or</i></p> <p>9. Threat to engage in conduct above. §§ 813.122(1)(a); 48.02(1)(a) & (b) to (gm)</p>	<p>1. Interference with, or based on prior conduct of the person may interfere with, an investigation of the individual at risk, the delivery of protective services to the individual at risk under §55.05, the delivery of protective placement under §55.06, or the delivery of services to an elder adult at risk under §46.90(5m);</p> <p>2. The interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation*, neglect*, or self-neglect* has occurred, is occurring, or may recur.</p> <p>3. Physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation*, neglect*, harassment*, or stalking* of an individual at risk or the mistreatment of an animal*.</p> <p>§§ 813.123(4)(a)2.a. & (4)(a)2.b.</p> <p>*See definitions on last pages</p>	<p>1. Striking, shoving, kicking or subjecting another to physical contact or attempting or threatening to do the same;</p> <p>2. Engaging in course of conduct or repeatedly committing acts which harass or intimidate another person & which serve no legitimate purpose. §813.125(1)</p> <p>3. Child Abuse under §48.02. [See §813.122 for the definitions of child abuse §48.02 on this page, two columns to the left.]</p> <p>4. Sexual intercourse or sexual contact under §940.225 [1st, 2nd, 3rd or 4th degree sexual assault]</p> <p>5. Stalking under §940.32 [Intentionally engaging in a course of conduct directed at a specific person that would cause a reasonable person under similar circumstances to suffer serious emotional distress or fear of bodily injury]</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
4. Where can the petition be filed (venue)?	<p>1. County where petitioner resides</p> <p>2. County where respondent resides</p> <p>3. County where cause of action arose (where incident occurred)</p> <p>4. County where petitioner is temporarily residing <u>§801.50(5r)</u></p>	<p>1. County where petitioner resides</p> <p>2. County where respondent resides</p> <p>3. County where cause of action arose (where incident occurred) <u>§801.50(5s)</u></p>	<p>1. County where claim arose <u>§801.50(2)(a)</u></p> <p>2. County where defendant (respondent) resides <u>§801.50(2)(c)</u></p>	<p>1. County where petitioner resides</p> <p>2. County where respondent resides</p> <p>3. County where cause of action arose (where incident occurred) <u>§801.50(5s)</u></p>
5. Can the victim's address be kept confidential?	<p>Yes. The petitioner's address shall not be disclosed on the petition, temporary restraining order, or injunction. <u>§813.12(5m)</u></p>	<p>§813.122 does not contain language to address this issue. However, 813.122(6) does not require an address.</p>	<p>§813.123 does not contain language to address this issue. However, §813.123(6) does not require an address.</p>	<p>Yes. The petitioner's address shall not be disclosed on the petition, restraining order, or injunction. <u>§813.125(5m)</u></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
6. What will it cost to file a petition?	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. §§ <u>814.61(1)(d)</u> and <u>814.70</u>.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. §§ <u>814.61(1)(d)</u> & <u>814.70</u>.</p> <p>If service by publication is necessary [<u>§813.12(2)</u>], the fee is paid by the petitioner.</p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. <u>§814.61(1)(d)</u> .</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. §§<u>814.61(1)(d)</u> & <u>814.70</u>.</p> <p>If a proceeding is brought under <u>§48.13</u> [CHIPS action- Children in Need of Protection or Services], any party to or any governmental or social agency involved in the CHIPS proceeding may petition the court for a TRO or injunction & no fee is required for the filing of the petition. <u>§48.25(6)</u>. This means the respondent is a child.</p>	<p>No fee may be collected to file the petition, to serve the petition or for the cost of travel to serve the petition. §§ <u>814.61(1)(d)</u> & <u>814.70</u>.</p> <p>However, fees for the cost of filing a petition, service of the petition and travel to serve the petition may be collected from the respondent upon conviction of violation of the order. §§ <u>814.61(1)(d)</u> & <u>814.70</u>.</p>	<p>If a proceeding is brought under <u>813.125</u> and does not allege domestic abuse behavior as listed in <u>§813.12(1)(am)1 to 6</u> or stalking behavior in <u>§940.32</u>, the filing fee is \$75 under <u>§814.61(1)</u>; \$12 for justice information fee under <u>§814.86(1)</u>; \$68 for court support services fee under <u>§814.85(1)(a)</u> for a total of \$155. The minimum fee is \$12 per attempt under <u>§814.70</u>. Counties may charge a higher fee under <u>§814.705</u>. The fee for travel depends on the size of the county. <u>§814.70(3)</u>.</p> <p>Fees for the cost of filing a petition or service of the petition shall be collected from the respondent upon conviction of violation of the order. <u>§814.61(1)(e)</u></p> <p>No fee may be collected to file the petition, to serve the petition, or for the cost of travel to serve the petition when the petition alleges conduct that is the same or similar by <u>§940.32*</u> behavior listed in <u>§813.12(1)(am)1 to 6</u>.</p> <p>*Stalking criminalizes intentional behavior which an actor knows or should know will make the recipient fear bodily harm or death for him/herself or immediate family, and is repeatedly done on 2 or more calendar days. <u>§940.32</u></p> <p>If a proceeding is brought under <u>§48.13</u> [CHIPS action – Children in Need of Protection or Services], any party to or any governmental or social agency involved in the CHIPS proceeding may petition the court for a TRO or injunction & no fee is required for the filing of the petition. <u>§48.25(6)</u>. This means the respondent is a child.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
7. How long is a TRO in effect?	Until a hearing is held on the issuance of an injunction. The hearing shall be within 14 days after the TRO is issued, unless an extension is granted. <u>§813.12(3)(c)</u>	Until a hearing is held on the issuance of an injunction. The hearing shall be within 14 days after the TRO is issued, unless an extension is granted. <u>§813.122(4)(c)</u>	Until a hearing is held on the issuance of an injunction. The hearing shall be within 14 days after the TRO is issued, unless an extension is granted. <u>§813.123(4)(c)</u>	Until a hearing is held on the issuance of an injunction. The hearing shall be within 14 days after the TRO is issued, unless an extension is granted. <u>§813.125(3)(c)</u>
8. Who may issue a TRO?	Judge or circuit court commissioner <u>§§ 813.12(3)(a) & 757.69(1)(m)</u>	Judge or circuit court commissioner <u>§§ 813.122(4)(a) & 757.69(1)(j)</u> Circuit court commissioner if assigned to juvenile matters in which respondent is a child <u>§757.69(1)(g)7</u>	Judge or circuit court commissioner <u>§§ 813.123(4)(a) & 757.69(1)(j)</u>	Judge or circuit court commissioner <u>§§ 813.125(3)(a) & 757.69(1)(m)</u> Circuit court commissioner if assigned to juvenile matters in which respondent is a child <u>§757.69(1)(g)7</u>
9. When can the court extend a TRO?	1. Written consent of parties or 2. Once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence. <u>§813.12(3)(c)</u>	1. Written consent of parties <i>or</i> 2. Once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence. <u>§813.122(4)(c)</u>	1. Written consent of parties <i>or</i> 2. Once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence. <u>§813.123(4)(c)</u>	1. Written consent of parties or 2. Once for 14 days upon a finding that the respondent has not been served with a copy of the TRO although the petitioner has exercised due diligence. <u>§813.125(3)(c)</u>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
10. What must the court find in order to grant the TRO?	<p>1. The petition alleges the necessary facts as set out in <u>§813.12(5)(a)</u> <i>and</i></p> <p>2. There are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the petitioner and the respondent, may engage in domestic abuse of the petitioner. <u>§813.12(3)(a)</u></p> <p>3. Petitioner is in imminent danger of harm. <u>Blazel v. Bradley</u>, 698 F. Supp. 756 (W.D. Wis. 1988).</p> <p>4. A TRO may not be dismissed or denied because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. See <u>§813.12(3)(aj)</u></p>	<p>1. The petition alleges the elements set forth in <u>§813.122(6)(a)</u> and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in, or based on prior conduct of the child victim and the respondent, may engage in abuse of the child victim. <u>§813.122(4)(a)</u></p>	<p>1. Reasonable grounds to believe that the respondent has interfered with, or based on prior conduct of the respondent may interfere with, an investigation of the individual at risk, the delivery of protective services under <u>§55.05</u> or a protective placement under <u>§55.06</u>, or delivery of services to an elder adult at risk under <u>§46.90 (5m)</u>; <i>and</i> that the interference complained of, if continued, would make it difficult to determine whether physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, or self-neglect has occurred, is occurring, or may recur.</p> <p>2. Respondent engaged in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal. <u>§813.123(4)(a)1., 2., 2b.</u></p>	<p>1. The petition alleges the elements set forth in <u>§813.125(5)(a)</u>; and</p> <p>2. There are reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner.</p>
11. Does notice have to be given to the respondent before issuing a TRO?	No. Notice need not be given to the respondent before issuing a TRO. <u>§813.12(3)(b)</u>	No. Notice need not be given to the respondent before issuing a TRO. <u>§813.122(4)(b)</u>	No. Notice need not be given to the respondent before issuing a TRO. <u>§813.123(4)(b)</u>	No. Notice need not be given to the respondent before issuing a TRO. <u>§813.125(3)(b)</u>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
12. What can the respondent be ordered to do if a TRO is issued?	<p>1. Refrain from committing acts of domestic abuse against the petitioner.</p> <p>2. Avoid the petitioner's residence or any other location temporarily occupied by the petitioner or both.</p> <p>3. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents in writing.</p> <p>4. Any combination of these remedies.</p> <p>5. Court can order any other appropriate remedy not inconsistent with the remedies requested in the petition.</p> <p><u>§813.12(3)(a)</u></p>	<p>1. Avoid the child victim's residence or any residence temporarily occupied by the child victim or both.</p> <p>2. Avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the court agrees that the contact is in the child victim's best interest.</p> <p><u>§813.122(4)(a)</u></p>	<p>Unless the individual at risk, guardian or guardian ad litem consents in writing and the court agrees that contact is in the best interest of the individual at risk, the respondent can be ordered to do one or more of the following:</p> <p>1. Avoid interference with an investigation of the elder adult at risk under <u>§46.90</u> or the adult at risk under <u>§55.043</u>, the delivery of protective services to the individual at risk under <u>§55.05</u> or a protective placement of the individual at risk under <u>§55.06</u>, or the delivery of services to the elder adult at risk under <u>§46.90(5m)</u>.</p> <p>2. Cease engaging in or threatening to engage in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal.</p> <p>3. Avoid the residence of the individual at risk or any other location temporarily occupied by the individual at risk, or both.</p> <p>4. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the individual at risk.</p> <p>5. Engage in any other appropriate remedy not inconsistent with the remedies requested in the petition.</p> <p><u>§§ 813.123(4)(a) & (ar)</u></p>	<p>1. Cease the harassment of another person. <u>§813.125(3)(a)</u></p> <p>2. Avoid the harassment of another person. <u>§813.125(3)(a)</u></p> <p>3. Avoid the petitioner's residence or any premises temporarily occupied by the petitioner or both. However, if the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order.</p> <p><u>§813.125(3)(a)(intro)</u> and (3)(am)</p> <p>4. Any combination of these remedies.</p> <p><u>§813.125(3)(a)(intro)</u></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
<p>13. How does the petitioner serve the TRO or injunction on the respondent?</p>	<p>1. Upon request by the petitioner, the court shall order the sheriff to serve the TRO. <u>§813.12(6)(a)</u></p> <p>2. At the petitioner’s expense, the petitioner may use a private process server. <u>§813.12(6)(a)</u>; <u>§801.11(1)</u> for info on private service.</p> <p>3. If the court extends the time for a hearing & the petitioner files an affidavit with the court stating that personal service by the sheriff or a private server was unsuccessful because the respondent is avoiding service by concealment or otherwise, the petitioner may serve the respondent by publication of a summary of the petition as a class 1 notice & by mailing or sending a facsimile of the summary. If the mailing address or facsimile number cannot be ascertained with due diligence, they may be omitted. <u>§813.12(2)</u></p> <p>NOTE: If the respondent has been served with a copy of the petition and notice of the time for hearing under <u>§813.12(4)(a)2</u>, the respondent has constructive knowledge* of the existence of the injunction, regardless of whether the respondent has been served with a copy of the injunction. <u>§813.12(7)(c)</u></p>	<p>1. Upon request by the petitioner, the court, as applicable, shall order the sheriff to assist in serving the TRO or injunction. <u>§813.122(9)(a)</u></p> <p>2. <u>§813.122</u> does not address the issue of private service. However, private service is possible. <u>§801.11(1)</u></p> <p>NOTE: If the respondent has been served with a copy of the petition and notice of the time for hearing under <u>§ 813.122(5)(a)2</u>, the respondent has constructive knowledge* of the existence of the injunction, regardless of whether the respondent has been served with a copy of the injunction. <u>§ 813.122(10)(c)</u></p>	<p>1. Upon request by the petitioner, the court shall order the sheriff to assist in serving the TRO or injunction. <u>§813.123(8)(a)</u></p> <p>2. <u>§813.123</u> does not address the issue of private service. However, private service is possible. <u>§801.11(1)</u></p> <p>NOTE: If the respondent has been served with a copy of the petition and notice of the time for hearing under <u>§813.123(5)(a)2</u>, the respondent has constructive knowledge* of the existence of the injunction, regardless of whether the respondent has been served with a copy of the injunction. <u>§ 813.123(9)(c)</u></p>	<p>1. <u>§813.125</u> does not address the issue of service. However, in most counties the sheriff’s department treats harassment restraining orders as it would any other restraining order and will assist with service.</p> <p>2. <u>§813.125</u> does not address the issue of private service. However, private service is possible. <u>§801.11(1)</u></p> <p>NOTE: If the respondent has been served with a copy of the petition and notice of the time for hearing under <u>§ 813.125(4)(a)2</u>, the respondent has constructive knowledge* of the existence of the injunction, regardless of whether the respondent has been served with a copy of the injunction. <u>§ 813.125(6)(c)</u></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
14. Can the court issue a dual TRO?	No. A TRO may be entered only against the respondent named in the petition. <u>§813.12(3)(b)</u>	No. A TRO may be entered only against the respondent named in the petition. <u>§813.122(4)(b)</u>	No. A TRO may be entered only against the respondent named in the petition. <u>§813.123(4)(b)</u>	No. A TRO may be entered only against the respondent named in the petition. <u>§813.125(3)(b)</u>
15. Is notice required before the court can issue a TRO?	No. See <u>§813.12(3)(b)</u> .	No. See <u>§813.122(4)(b)</u> .	No. See <u>§813.123(4)(b)</u> .	No. See <u>§813.125(3)(b)</u> .
16. If the court denies the request for a TRO, is an injunction hearing still possible?	Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing shall be set by the court upon motion by either petitioner or respondent. <u>§813.12(2m)</u> NOTE: See CV-402, which allows the petitioner to file for a TRO and/or injunction.	Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing shall be set by the court upon motion by either petitioner or respondent. <u>§813.122(3)(a)</u> NOTE: See CV-412, which allows the petitioner to file for a TRO and/or injunction.	Yes. If a TRO is not requested, or if the court does not issue a TRO, a date for an injunction hearing shall be set by the court upon motion by either petitioner or respondent. <u>§813.123(3)(a)</u> NOTE: See CV-428, which allows the petitioner to file for a TRO and/or injunction.	<u>§813.125</u> does not contain language to allow the petitioner to request an injunction hearing in the petition if the TRO is denied.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
17. Can law enforcement assist in gaining physical possession of a home?	The court shall order the sheriff to accompany the petitioner & assist in placing him or her in physical possession of his or her residence upon request by the petitioner. §813.12(6)(a). <u>Hayen v. Hayen</u> , 232 Wis.2d 447 (Ct. App. 1999)	§813.122 does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.	§813.123 does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.	§813.125 does not contain language to address law enforcement assisting the petitioner in placing him or her in physical possession of his or her residence.
18. Is the TRO voided if the respondent is admitted into the home or the petitioner initiates contact with respondent?	No. The TRO is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. §813.12(3)(c)	§813.122 does not contain language to address this issue.	§813.123 does not contain language to address this issue.	§813.125 does not contain language to address this issue.

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
19. For how long can an injunction be granted?	<p>For the period of time the petitioner requests, but no more than four years. <u>§813.12(4)(c)</u>.</p> <p><u>Laluzerne v. Stange</u>, 200 Wis. 2d 179 (Ct. App. 1996), states: “Under the clear and unambiguous language of <u>§813.12(4)(c)</u>, the injunction is effective for the period of time the petitioner requests.”</p>	<p>For no more than two years, or until the child victim reaches 18 years of age, whichever occurs first. <u>§813.122(5)(d)</u>.</p>	<p>No more than four years. <u>§813.123(5)(c)1</u>.</p>	<p>No more than four years. <u>§813.125(4)(c)</u>.</p>
20. Who may issue an injunction?	<p>Judge or circuit court commissioner. §§ <u>813.12(4)(a)</u> & <u>757.69(1)(m)</u></p>	<p>Judge. <u>§813.122(5)(a)</u></p>	<p>Judge. <u>§ 813.123(5)(a)</u></p>	<p>Judge or circuit court commissioner. §§ <u>813.125(4)(a)</u> & <u>757.69(1)(m)</u></p> <p>Circuit court commissioner if assigned to juvenile matters in which the respondent is a child. <u>§757.69(1)(g)7</u></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
<p>21. What must the court find in order to grant an injunction?</p>	<p>1. Petition has been filed alleging certain elements; and 2. Petitioner serves petition & notice of time of hearing on respondent or respondent serves notice of time for hearing upon petitioner; and 3. Court finds there are reasonable grounds to believe the respondent a) has engaged in domestic abuse of the petitioner or b) based on prior conduct of the petitioner and the respondent, may engage in domestic abuse of the petitioner. <u>§813.12(4)(a)</u> 4. In determining whether to grant the injunction, court shall consider the potential danger posed to petitioner & the pattern of abusive conduct of respondent but may not base decision solely on length of time since last domestic abuse or length of time since relationship ended. <u>§813.12(4)(aj)</u> 5. The judge or circuit court commissioner may not dismiss or deny granting any injunction because of the existence of a pending action or of any other court order that bars contact between the parties, nor due to the necessity of verifying the terms of an existing court order. <u>§813.12(4)(aj)</u></p>	<p>1. Petition has been filed alleging certain elements; and 2. Petitioner serves petition & notice of time for hearing on respondent or respondent serves notice of time for hearing upon petitioner; and 3. Court finds reasonable grounds to believe a) respondent has engaged in or b) based upon prior conduct of the child victim & respondent may engage in abuse of the child victim. <u>§813.122(5)(a)</u></p> <p>NOTE: If the respondent is the parent of the child victim, the judge shall provide reasonable visitation rights, unless the judge finds to do so would endanger the child's physical, mental or emotional health. Visitation may be supervised. <u>§813.122(5)(b).</u></p>	<p>1. Petition has been filed alleging certain elements; and 2. Petitioner serves petition & notice of hearing on respondent or respondent serves notice of time for hearing on petitioner; and 3. Court finds reasonable cause to believe any of these: a. The respondent has interfered with or, based upon prior conduct, may interfere with an investigation of the elder adult at risk under <u>s. 46.90</u> or the adult at risk under <u>s. 55.043</u> and that the interference complained of, if continued, would make it difficult to determine if abuse, financial exploitation, neglect, harassment, or stalking of an individual at risk or mistreatment of an animal is occurring or may recur; and that the interference complained of, if continued, would make it difficult to determine whether abuse, financial exploitation, neglect, or self-neglect has occurred, is occurring, or may recur. b. The respondent has interfered with the delivery of protective services or a protective placement under <u>ch. 55</u> after the offer of protective services/placement has been made and the individual at risk or his/her guardian, has consented to receipt of the protective services/ placement; or that the respondent has interfered with the delivery of services to an elder adult at risk under <u>s. 46.90 (5m)</u>. c. That the respondent has engaged in or threatened to engage in the abuse, financial exploitation, neglect, harassment, stalking, or the mistreatment of an animal. <u>§813.123(5)(a)</u></p>	<p>1. The petition alleges the elements set forth in <u>§ 813.125(5)(a)</u>. <u>§813.125(4)(a)1</u> 2. Court finds reasonable grounds to believe the respondent has engaged in harassment with intent to harass or intimidate the petitioner.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
22. What can the respondent be ordered to do if an injunction is granted?	<p>1. Refrain from committing acts of domestic abuse against the petitioner.</p> <p>2. Avoid the petitioner's residence or any other location temporarily occupied by the petitioner or both.</p> <p>3. However, if the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order. <u>§813.12(4)(am)</u></p> <p>4. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner unless the petitioner consents in writing.</p> <p>5. Any combination of these remedies.</p> <p>6. Order any other appropriate remedy not inconsistent with the remedies requested in the petition.</p> <p>7. Firearms surrender **</p>	<p>1. Avoid the child victim's residence or any residence temporarily occupied by the child victim or both.</p> <p>2. Avoid contacting or causing any person other than a party's attorney to contact the child victim unless the petitioner consents in writing and the court agrees that the contact is in the child victim's best interest. <u>§813.122(5)(a)</u></p> <p>3. Firearms surrender**</p> <p>** See next page for information on mandated firearms surrender.</p>	<p>1. Avoid interference with an investigation of the elder adult at risk under <u>§46.90</u> or the adult at risk under <u>§55.043</u>, the delivery of protective services to the individual at risk under <u>§55.05</u> or a protective placement of the individual at risk under <u>§55.06</u>, or the delivery of services to the elder adult at risk under <u>§46.90 (5m)</u>.</p> <p>2. Cease engaging in or threatening to engage in the physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint, financial exploitation, neglect, harassment, or stalking of an individual at risk or the mistreatment of an animal.</p> <p>3. Avoid the residence of the individual at risk or any other location temporarily occupied by the individual at risk, or both.</p> <p>4. Avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the individual at risk.</p> <p>5. Any other appropriate remedy not inconsistent with the remedies requested in the petition</p> <p><u>§813.123(5)(ar)</u></p>	<p>1. Cease the harassment of another person. <u>§813.125(4)(a)</u></p> <p>2. Avoid the harassment of another person. <u>§813.125(4)(a)</u></p> <p>3. Avoid the petitioner's residence or any premises temporarily occupied by the petitioner or both. However, if the petitioner & respondent are not married, the respondent owns the premises where the petitioner resides & the petitioner has no legal interest in the premises, the court may order the respondent to avoid the premises for a reasonable length of time until the petitioner relocates & shall order the respondent to avoid the new residence for the duration of the order. <u>§§ 813.125(4)(a) & (am)</u></p> <p>4. Any combination of these remedies. <u>§813.125(4)(a)</u></p> <p>5. Prohibit from possessing a firearm* if it is determined the respondent may use a firearm* to cause physical harm to another or to endanger public safety. <u>§813.125(4m)(a)</u></p> <p>NOTE: In <u>Bachowski v. Salamone</u>, 139 Wis. 2d 397, 414 (1987), the court said only the acts which form the basis of the judge's finding of harassment or substantially similar conduct can be enjoined.</p> <p>*See definitions on last pages</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
23. Is there an automatic firearms surrender law against the respondent?	<p>Yes. For all petitions filed on or after 4-1-96, if the injunction is granted, the respondent must surrender any firearms* he/she owns or has in his/her possession. <u>§813.12(4m)(a)</u></p> <p>*See definitions on last pages</p>	<p>Yes. For all petitions filed on or after 4-1-96, if the injunction is granted, the respondent must surrender any firearms* he/she owns or has in his/her possession. <u>§813.122(5m)(a)</u></p> <p>*See definitions on last pages</p>	<p><u>§813.123</u> does not address this issue.</p>	<p>No. It is not automatic. However for petitions filed on or after 4-1-96, if the court issues an injunction and determines - based on clear & convincing evidence - that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the court may prohibit the respondent from possessing a firearm.* <u>§813.125(4m)(a)</u></p> <p>*See definitions on last pages</p>
24. Are there any exceptions to who must surrender firearms?	<p>Yes. If the respondent is a peace officer, an injunction may not require the respondent to surrender a firearm* that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <u>§813.12(4m)(ag)</u></p> <p>A person who is member of the U.S. armed forces or national guard may possess a firearm* while in the line of duty. <u>§941.29(10)(b)</u></p> <p>*See definitions on last pages</p>	<p>Yes. If the respondent is a peace officer, an injunction may not require the respondent to surrender a firearm* that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <u>§813.122(5m)(ag)</u></p> <p>A person who is a member of the U.S. armed forces or national guard may possess a firearm* while in the line of duty. <u>§941.29(10)(b)</u></p> <p>*See definitions on last pages</p>	<p><u>§813.123</u> does not address this issue.</p>	<p>Yes. If the respondent is a peace officer, an order may not require the respondent to surrender a firearm* that he or she is required, as a condition of employment, to possess whether or not he or she is on duty. <u>§813.125(4m)(cg)</u> <u>§941.29(10)(b)</u> does not make a reference to persons under <u>§813.125</u> in the U.S. armed forces or the national guard, so it appears they could be prosecuted if possessing a firearm* even while in the line of duty.</p> <p>*See definitions on last pages</p>
25. Does the firearm surrender law apply when a TRO is issued?	<p>No. It only applies when an injunction is granted. <u>§813.12(4m)(a)2</u></p>	<p>No. It only applies when an injunction is granted. <u>§813.122(5m)(a)2</u></p>	<p><u>§813.123</u> does not address this issue.</p>	<p>No. It only applies when an injunction is granted and only when the court determines it is necessary. <u>§813.125(4m)(a)</u></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
26. To whom must the firearms be surrendered?	<p>1. To the sheriff of the county in which the action was commenced; 2. To the sheriff of the county in which the respondent resides; 3. To another person designated by the respondent and approved by the court. <u>§813.12(4m)(a)2</u></p>	<p>1. To the sheriff of the county in which the action was commenced; 2. To the sheriff of the county in which the respondent resides; 3. To another person designated by the respondent and approved by the court. <u>§813.122(5m)(a)2</u></p>	<p><u>§813.123</u> does not address this language.</p>	<p>1. To the sheriff of the county in which the action was commenced; 2. To the sheriff of the county in which the respondent resides; 3. To another person designated by the respondent and approved by the court. <u>§813.125(4m)(c)2</u></p>
27. Must the court surrender the gun to a person designated by the respondent?	<p>Yes. The court shall approve the person designated by the respondent unless the court finds the person is inappropriate and places the reasons for the finding on the record. <u>§813.12(4m)(a)2</u></p>	<p>Yes. The court shall approve the person designated by the respondent unless the court finds the person is inappropriate and places the reasons for the finding on the record. <u>§813.122(5m)(a)2</u></p>	<p><u>§813.123</u> does not address this issue.</p>	<p>Yes. The court shall approve the person designated by the respondent unless the court finds the person is inappropriate and places the reasons for the finding on the record. <u>§813.125(4m)(c)2</u></p>
28. How can the firearms be returned?	<p>The firearms* may not be returned until the court determines: 1. The injunction has been vacated or has expired and not been extended. 2. The respondent is not prohibited from possessing a firearm* under any state or federal law or by an order from any state or federal court. <u>§813.12(4m)(b)</u> *See definitions on last pages</p>	<p>The firearms* may not be returned until the court determines: 1. The injunction has been vacated or has expired and not been extended. 2. The respondent is not prohibited from possessing a firearm* under any state or federal law or by an order from any state or federal court. <u>§813.122(5m)(b)</u> * See definitions on last page</p>	<p><u>§813.123</u> does not address this issue.</p>	<p>The firearms* may not be returned until the court determines: 1. The injunction has been vacated or has expired. 2. The respondent is not prohibited from possessing a firearm* under any state or federal law or by an order from any state or federal court. <u>§813.125(4m)(d)</u> * See definitions on last pages</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
29. Can the court order an injunction against the petitioner?	<p>No. The court may enter an injunction only against the respondent named in the petition. <u>§813.12(4)(b)</u></p> <p>No injunction may be issued under the same case number against the person petitioning for the injunction. <u>§813.12(4)(b)</u></p> <p><u>Laluzerne v. Stange</u>, 200 Wis. 2d 179 (Ct. App. 1996), states that <u>§813.12(4)(b)</u> precludes the issuing of a mutual domestic abuse injunction.</p>	<p>No. The court may enter an injunction only against the respondent named in the petition. <u>§813.122(5)(c)</u></p>	<p>No. The court may enter an injunction only against the respondent named in the petition. <u>§813.123(5)(b)</u></p>	<p>No. The court may enter an injunction only against the respondent named in the petition. <u>§813.125(4)(b)</u></p>
30. Is the injunction voided if the respondent is admitted into the petitioner's home or if the petitioner initiates contact with the respondent?	<p>No. The injunction is not voided if the petitioner allows or initiates contact with the respondent or by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid. <u>§813.12(4)(c)1</u></p>	<p><u>§813.122</u> does not address this issue.</p>	<p><u>§813.123</u> does not address this issue.</p>	<p><u>§813.125</u> does not address this issue.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
31. Can a court extend an injunction?	<p>Yes. When an injunction granted for less than 4 years expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her. The extension shall remain in effect until four years after the date the court first entered the injunction.</p> <p><u>§813.12(4)(c)2</u></p> <p><u>Switzer v. Switzer</u>, 2006 WI App 10 states: Sec. 813(4)(c)2 allows for the extension of an expired injunction if it was granted for less than 4 years.</p>	<p>Yes. When an injunction in effect for less than six months expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect the child victim. This extension shall remain in effect until 6 months after the date on which the court first entered the injunction, or until the child attains 18 years of age, whichever occurs first.</p> <p><u>§813.122(5)(d)2</u></p> <p>If the petitioner states that an injunction is necessary to protect the child victim, the court may extend an injunction for not more than 2 years or until the child attains 18 years of age, whichever occurs first.</p> <p><u>§813.122(5)(d)3</u></p>	<p>Yes. When an injunction in effect for less than six months expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect the individual at risk. This extension shall remain in effect until 6 months after the date on which the court first entered the injunction. If the petitioner states an extension is necessary to protect the individual at risk, the court may extend the injunction for not more than 2 years.</p> <p><u>§813.123(5)(c)1.</u></p>	<p>No. <u>§813.125</u> does not address this issue.</p>
32. Must the court give notice before it extends an injunction?	<p>Notice need not be given to the respondent before extending an injunction. The petitioner shall notify the respondent after the court extends an injunction.</p> <p><u>§813.12(4)(c)4</u></p> <p>NOTE: An informal Attorney General’s opinion dated 9-1-95 says service of an extension order by law enforcement personnel is the preferred method of notifying the respondent of an extension.</p>	<p>Notice need not be given to the respondent before extending an injunction. The petitioner shall notify the respondent after the court extends an injunction.</p> <p><u>§813.122(5)(d)4</u></p>	<p>Notice need not be given to the respondent before extending an injunction. The petitioner shall notify the respondent after the court extends an injunction.</p> <p><u>§813.123(5)(c)4</u></p>	<p><u>§813.125</u> does not address the issue of an extension.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
33. Are there any orders a court may not make as part of the injunction?	<p>1. The court may not make findings or issue orders under <u>§767.225</u> [child & spousal support] or <u>§767.41</u> [custody & physical placement]. <u>§813.12(2)(b)</u></p> <p>2. The court may not modify an order restraining the respondent based solely on the request of the respondent. <u>§813.12(4)(b)</u></p>	<p><u>§813.122</u> does not list any prohibited orders. It does, however, list many orders the court may make, including orders about child support, supervised visitation and an order for a guardian ad litem. <u>§§ 813.122(5)(e), 813.122(5)(b), & 813.122(3)(b)</u>, respectively.</p> <p>The court may not order a person who files a petition to reimburse counsel for the child who is named as a respondent in that petition. <u>§48.23(4)</u></p>	<p><u>§813.123</u> does not list any prohibited orders. It does, however, note what the respondent is prohibited from doing. <u>§813.123(7)</u></p>	<p>The petition and the court order shall not disclose the address of the alleged victim. <u>§813.125(5m)</u></p> <p>The court may not order a person who files a petition to reimburse counsel for the child who is named as a respondent in that petition. <u>§48.23(4)</u></p>
34. Does the law mandate a law enforcement officer to make an arrest for violation of a TRO or injunction?	<p>Yes, if:</p> <p>1. Presented with a court order or the law enforcement officer verifies a court order exists, <u>and</u></p> <p>2. The officer has probable cause to believe the person has violated the court order. <u>§813.12(7)(am)</u>; 2007 WI Act 124</p>	<p>Yes, if:</p> <p>1. Presented with a court order or the law enforcement officer verifies a court order exists, <u>and</u></p> <p>2. The officer has probable cause to believe the person has violated the court order. <u>§813.122(10)(am)</u>; 2007 WI Act 124</p>	<p>Yes, if:</p> <p>1. Presented with a court order or the law enforcement officer verifies a court order exists, <u>and</u></p> <p>2. The officer has probable cause to believe the person has violated the court order. <u>§813.123(9)(am)</u>; 2007 WI Act 124</p>	<p>Yes, if:</p> <p>1. Presented with a court order or the law enforcement officer verifies a court order exists, <u>and</u></p> <p>2. The officer has probable cause to believe the person has violated the court order. <u>§813.125(6)(am)</u>; 2007 WI Act 124</p>
35. Are there other laws which might assist a petitioner?	<p>1. <u>§895.45</u> - Victim service representative.</p> <p>2. Chapter <u>950</u> - Rights of victims & witnesses of crime, if respondent is charged with crime.</p> <p>3. Chapter <u>949</u> - Crime Victim Compensation, if victim has reported the crime & it is compensable.</p>	<p>1. <u>§895.45</u> - Victim service representative.</p> <p>2. Chapter <u>950</u> - Rights of victims & witnesses of crime, if respondent is charged with crime.</p> <p>3. Chapter <u>949</u> - Crime Victim Compensation, if victim has reported the crime & it is compensable.</p>	<p>1. <u>§895.45</u> - Victim service representative.</p> <p>2. Chapter <u>950</u> - Rights of victims & witnesses of crime, if respondent is charged with crime.</p> <p>3. Chapter <u>949</u> - Crime Victim Compensation, if victim has reported the crime & it is compensable.</p>	<p>1. <u>§895.45</u> - Victim service representative.</p> <p>2. Chapter <u>950</u> - Rights of victims & witnesses of crime, if respondent is charged with crime.</p> <p>3. Chapter <u>949</u> - Crime Victim Compensation, if victim has reported the crime & it is compensable.</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
36. Does Chapter 813 say anything about a guardian ad litem?	No.	<p>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. <u>§813.122(3)(b)</u></p> <p>The court shall appoint a guardian ad litem if the respondent is a parent of the child victim. <u>§813.122(3)(bm)</u></p> <p>* See definitions on last pages</p>	<p>Yes. The court on its own motion or on the motion of any party shall order that a guardian ad litem* be appointed for the individual at risk, if the petition was filed by a person other than the individual at risk, and may order that a guardian ad litem be appointed in other instances when justice so requires. <u>§813.123(3)(b)</u></p> <p>* See definitions on last pages</p>	<p><u>§813.125</u> does not address the issue of a guardian ad litem*. However, if the court is hearing a petition involving a minor as either the petitioner or the respondent, the court is likely to appoint a guardian ad litem* for the minor party. This can be avoided for the petitioner if the petition is brought by a parent or guardian on behalf of the minor petitioner. Also, see <u>§48.235(4)(a)(6)</u>.</p> <p>* See definitions on last pages</p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
37. Must the court or clerk of circuit court provide any help?	<p>1. Yes. The court shall advise the petitioner of the right to serve the respondent the petition by published notice if with due diligence the respondent cannot be served as provided under <u>§801.11(1)(a), (b), (c).</u> <u>§813.12(3)(d)</u></p> <p>2. The clerk of court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing. <u>§813.12(3)(d)</u></p> <p>3. The clerk of court shall provide the simplified forms provided under <u>§46.95(3)(c)</u> to help a person file a petition. <u>§813.12(5)(b)</u></p> <p>4. Within 24 hours after request by the petitioner, the clerk of circuit court shall send a copy of any order issued or provide notice of any order to the sheriff or to any other local law enforcement agency which is the central repository for orders & which has jurisdiction over the petitioner's premises. <u>§813.12(6)(b)</u></p>	<p>1. Upon request, the clerk of court shall provide, without cost, the simplified forms obtained under <u>§46.03(7)(d)</u> to a petitioner. <u>§813.122(6)(b)</u></p> <p>2. Within 24 hours after request by the petitioner, the clerk of circuit court shall send a copy of any order issued or provide notice of any order to the sheriff or to any other local law enforcement agency which is the central repository for orders & which has jurisdiction over the petitioner's premises. <u>§813.122(9)(b)</u></p>	<p>1. Upon request of the petitioner, the court shall order the sheriff to assist in executing or serving the TRO or injunction. <u>§812.123(8)(a)</u></p> <p>2. Within one business day after request by the petitioner, the clerk of circuit court shall send a copy of any order issued or provide notice of any order to the sheriff or to any other local law enforcement agency which is the central repository for orders & which has jurisdiction over the petitioner's premises. <u>§813.123(8)(b)</u></p>	<p>The clerk of court shall provide simplified forms. <u>§813.125(5)(b)</u></p>

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK SECTION 813.123	HARASSMENT SECTION 813.125
38. How does a petitioner drop a TRO or injunction?	<p>§813.12 does not address this issue. However, a court has authority to drop or vacate an order in at least 3 ways: §807.03 (Vacate an Order); §806.07 (Relief from a judgment or order); Inherent powers of court to do justice (Discussed in case law). A petitioner may wish to make a request to drop the order in writing. If possible, the petitioner and respondent may wish to write the letter, stating why they wish to have the order dropped. Whoever writes the letter should inquire whether anything further needs to be done to have the order dismissed & should sign the letter. After receiving the letter, a court will probably set a date for a hearing to which both parties will receive notice or consider the request a motion to dismiss & send an order to both parties granting the request. If the judge court the order, the order to dismiss should be sent to the sheriff’s department so they can remove the order from their files.</p> <p>See Form CV-409, <i>Dismissal Order(Injunction)</i> available at http://www.courts.state.wi.us/circuit/search_forms.html</p>	<p>§813.122 does not address this issue. However, a court has authority to drop or vacate an order in at least 3 ways: §807.03 (Vacate an Order); §806.07 (Relief from a judgment or order); Inherent powers of court to do justice (Discussed in case law). A petitioner may wish to make a request to drop the order in writing. If possible, the petitioner and respondent may wish to write the letter, stating why they wish to have the order dropped. Whoever writes the letter should inquire whether anything further needs to be done to have the order dismissed & should sign the letter. After receiving the letter, a judge will probably set a date for a hearing to which both parties will receive notice or consider the request a motion to dismiss & send an order to both parties granting the request. If the judge grants the order, the order to dismiss should be sent to the sheriff’s department so they can remove the order from their files.</p> <p>See Form CV-409, <i>Dismissal Order(Injunction)</i> available at http://www.courts.state.wi.us/circuit/search_forms.html</p>	<p>§813.123 does not address this issue. However, a court has authority to drop or vacate an order in at least 3 ways: §807.03 (Vacate an Order); §806.07 (Relief from judgment or order); Inherent powers of court to do justice (Discussed in case law). A petitioner may wish to make a request to drop the order in writing. If possible, the petitioner and respondent may wish to write the letter, stating why they wish to have the order dropped. Whoever writes the letter should inquire whether anything further needs to be done to have the order dismissed & should sign the letter. After receiving the letter, a judge will probably set a date for a hearing to which both parties will receive notice or consider the request a motion to dismiss & send an order to both parties granting the request. If the judge grants the order, the order to dismiss should be sent to the sheriff’s department so they can remove the order from their files.</p> <p>See Form CV-409, <i>Dismissal Order(Injunction)</i> available at http://www.courts.state.wi.us/circuit/search_forms.html</p>	<p>§813.125 does not address this issue. However, a court has authority to drop or vacate an order in at least 3 ways: §807.03 (Vacate an Order); §806.07 (Relief from judgment or order); Inherent powers of court to do justice (Discussed in case law). A petitioner may wish to make a request to drop the order in writing. If possible, the petitioner and respondent may wish to write the letter, stating why they wish to have the order dropped. Whoever writes the letter should inquire whether anything further needs to be done to have the order dismissed & should sign the letter. After receiving the letter, a judge will probably set a date for a hearing to which both parties will receive notice or consider the request a motion to dismiss & send an order to both parties granting the request. If the judge grants the order, the order to dismiss should be sent to the sheriff’s department so they can remove the order from their files.</p> <p>See Form CV-409, <i>Dismissal Order(Injunction)</i> available at http://www.courts.state.wi.us/circuit/search_forms.html</p>

TERMS	DEFINITIONS	WHERE DEFINITION IS FOUND IN STATUTES
<p>Abuse, under 813.123 (for purposes of individuals at risk)</p>	<p>“Abuse” includes the following: physical abuse, emotional abuse, sexual abuse, treatment without consent, and unreasonable confinement or restraint.</p> <ul style="list-style-type: none"> ○ <u>Physical abuse</u>: intentional or reckless infliction of bodily harm. See §46.90(1)(fg) ○ <u>Emotional abuse</u>: language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed. See §46.90(1)(cm) ○ <u>Sexual abuse</u>: violation of §§ 940.225(1), (2), (3), or (3m) (criminal sexual assault law). See §46.90(1)(gd) ○ <u>Treatment without consent</u>: the admission of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance. See §46.90(1)(h) ○ <u>Unreasonable confinement or restraint</u>: includes the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his or her living area, use on an individual of physical restraining device, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices, in entities regulated by the department - if the methods or devices are employed in conformance with state and federal standards governing confinement and restraint. See §46.90(1)(i) 	<p>§§ <u>46.90(1)(a)</u> & <u>55.01(1)</u></p>
<p>Adult at Risk</p>	<p>Any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, or financial exploitation.</p>	<p>§ <u>55.01(1e)</u></p>
<p>Adult-at-risk Agency</p>	<p>The agency designated by the county board of supervisors to receive, respond to, and investigate reports of abuse, neglect, or financial exploitation.</p>	<p>§ <u>55.01(1f)</u></p>
<p>Caregiver</p>	<p>An individual who provides in-home or community care to another through regular and direct contact</p>	<p>§ <u>813.12(1)(ad)</u> § <u>46.90(1)(aj)</u></p>

TERMS	DEFINITIONS	WHERE DEFINITION IS FOUND IN STATUTES
Constructive Knowledge	The respondent's knowledge of the existence of the injunction based on him being served with a copy of the petition and notice of the time for injunction hearing, regardless of whether the respondent has been served with a copy of the injunction	§813.12(7)(c) §813.122(10)(c); 2007 WI Act 124 §813.123(9)(c); 2007 WI Act 124 §813.125(6)(c); 2007 WI Act 124
Damage to Physical Property	Intentionally causing damage to the physical property of another without the person's consent.	§ <u>943.01</u>
Dating Relationship	A romantic or intimate social relationship between two adults, but not including a casual or business-related fraternization between two individuals in a business or social context. Courts shall determine whether a dating relationship existed by considering the length of the relationship, the type of the relationship, and the frequency of the interaction between the adult individuals involved in the relationship.	§ <u>813.12(1)(ag)</u>
Elder Adult at Risk	A person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.	§ <u>46.90(1)(br)</u>
Elder-adult-at-risk Agency	The agency designated by the county board of supervisors to receive, respond to, and investigate reports of abuse, neglect, or financial exploitation.	§ <u>46.90(1)(bt)</u>
Family member	A spouse, a parent, a child, a person related by blood or adoption.	§ <u>813.12(1)(b)</u>

TERMS	DEFINITIONS	WHERE DEFINITION IS FOUND IN STATUTES
Financial Exploitation	<p>Any of the following:</p> <ol style="list-style-type: none"> 1. Obtaining an individual's money or property by deceiving or enticing the individual, or by forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent. 2. Theft, as prohibited in <u>§943.20</u> 3. The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities. 4. Unauthorized use of an individual's personal identifying information or documents, as prohibited in <u>§943.201</u> 5. Unauthorized use of an entity's identifying information or documents, as prohibited in <u>§943.203</u> 6. Forgery, as prohibited in <u>§943.38</u> 7. Financial transaction card crimes, as prohibited in <u>§943.41</u>. 	§ <u>46.90(1)(ed)</u>
Firearm(s)	Weapon which acts by force of gunpowder. In <u>State v. Radon</u> , the court held the term firearm is appropriately defined as a weapon that acts by force of gunpowder to fire a projectile irrespective of whether it is inoperable due to a disassembly. 185 Wis.2d 701, 706 (Ct. App. 1994)	§ <u>167.31</u>
Guardian Ad Litem (GAL)	Attorney who represents the interest of the child.	§ <u>48.235</u>
Guardian	A person appointed by the court to manage the income and assets and provide for the essential requirements for health and safety and the personal needs of a minor, an individual found incompetent under s. <u>54.01(16)</u> , or a spendthrift under s. <u>54.01(31)</u> .	§ 54.01(10)
Harassment	<p>Harassment means any of the following:</p> <p>(a) Striking, shoving, kicking or otherwise subjecting another person to physical contact; engaging in an act that would constitute abuse under s. <u>48.02 (1)</u> (, sexual assault under s. <u>940.225</u>, or stalking under s. <u>940.32</u>; or attempting or threatening to do the same.</p> <p>(b) Engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.</p>	§ <u>813.125(1)</u>
Household Member	Person currently or formerly residing in a place of abode with another person	§ <u>813.12(1)(c)</u>

TERMS	DEFINITIONS	WHERE DEFINITION IS FOUND IN STATUTES
Incompetent Individual	A person adjudged by a court as meeting the requirements of Sec. <u>54.10(3)</u> . The court must find by clear and convincing evidence that: 1) The individual is at least 17 years and 9 months; and 2) For purposes of appointment of a guardian of the person, the individual meets the requirements of <u>54.10(3)(a)2</u> ; and 3) For purposes of appointment of a guardian of the estate, the individual meets the requirements of <u>54.10(3)(a)3</u> ; and 4) The individual's need for assistance in decision making or communication is unable to be met effectively through other means, as explained by <u>54.10(3)(a)4</u> .	§ <u>54.01(16)</u>
Individual at Risk	An adult at risk or an elder adult at risk. (See above)	§ <u>813.123(1)(ep)</u>
Maltreatment of Animals	Cruel treatment of any animal owned by or in service to an individual at risk.	§ <u>813.123(1)(fm)</u>
Neglect	The failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health. "Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order under <u>ch. 154</u> , a power of attorney for health care under <u>ch. 155</u> , or as otherwise authorized by law.	§§ <u>46.90(1)(f)</u> & <u>55.01(4r)</u>
Self-neglect	"Self-neglect" means a significant danger to an individual's physical or mental health because the individual is responsible for his or her own care but fails to obtain adequate care, including food, shelter, clothing, or medical or dental care.	§§ <u>46.90(1)(g)</u> & <u>55.01(6)</u>

TERMS	DEFINITIONS	WHERE DEFINITION IS FOUND IN STATUTES
Stalking	<p>Engaging in a course of conduct – 2 or more acts carried out over time, however short or long, that show a continuity of purpose – including any of the following:</p> <ol style="list-style-type: none"> 1. Maintaining a visual or physical proximity to the victim. 2. Approaching or confronting the victim. 3. Appearing at the victim's workplace or contacting the victim's employer or coworkers. 4. Appearing at the victim's home or contacting the victim's neighbors. 5. Entering property owned, leased, or occupied by the victim. 6. Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues. 6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs. 7. Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim. 8. Placing an object on or delivering an object to property owned, leased, or occupied by the victim. 9. Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim. 10. Causing a person to engage in any of the acts described in subsections 1 to 9. 	§ <u>940.32(1)(a)</u>

Wisconsin Temporary Restraining Order (TRO), Injunction Petitions and Related Forms can be located at http://www.courts.state.wi.us/circuit/search_forms.html