

# **FAQs FOR PETITIONERS ABOUT RESTRAINING ORDERS**

## ***1. WHAT IS A RESTRAINING ORDER?***

A restraining order is 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.

## ***2. HOW DO I GET A RESTRAINING ORDER?***

You start the process by requesting papers for a temporary restraining order (TRO). These papers are called the petition. The person completing the petition is called the petitioner. The person you file against is called the respondent. Once you file a TRO petition, the court decides whether or not to issue a TRO based on the information you write in the petition. If the court grants the TRO, the court will schedule a hearing for you to come back to court within 14 days. This hearing is called an injunction hearing. At that hearing you will ask the court to order a final order of protection, which is called an injunction. An injunction can be granted for up to 2 years for child abuse, and up to 4 years for domestic abuse, harassment, and individuals at risk.

## ***3. IS THERE A SPECIFIC WAY I SHOULD EXPLAIN WHAT HAPPENED?***

Limit your statement to the incident(s) that caused you to seek a restraining order. State exactly who (using the person's name) did or said what. Be specific about what happened. For instance, if you were threatened, state exactly what the person said or did that threatened you. If abused, state specifically what the person did to you. Also, you must state when the incident happened.

## ***4. HOW DOES THE RESPONDENT FIND OUT I HAVE FILED A TRO AGAINST THEM?***

The sheriff will give the respondent the information about the TRO and the injunction hearing date. This process is called serving the order or service of process. You also have the choice to hire a private process server to serve the respondent, instead of the sheriff. The sheriff will serve the petition for free, but a private process server will charge you a fee. The respondent must be served with the petition before the court can hold an injunction hearing. It is your responsibility to make sure the petition is served.

## ***5. WILL THE RESPONDENT GET COPY OF WHAT I WROTE?***

Yes. When the sheriff's department or a private process server serves the papers, the respondent is given a copy of the petition. They will read the statements that you wrote in the petition.

## ***6. IF I AM FILING A DOMESTIC ABUSE OR HARASSMENT TRO, WILL I BE ABLE TO RETURN TO MY HOME IMMEDIATELY AFTER I FILE THE TRO?***

Sometimes. If you make a request to the court, the court can order the sheriff to help you gain physical possession of your home. If the police cannot immediately get to the task of serving the respondent

with the restraining order and placing you in possession of your home, you may need to stay someplace else until the police can help you.

***7. WILL THE RESPONDENT BE IN COURT FOR THE INJUNCTION HEARING?***

The respondent is not required to come to the injunction hearing, so they might not show up. But, the respondent may be at the injunction hearing and might say that the things you wrote in the petition are not true. The respondent might also tell the court that it shouldn't issue an injunction. However, the petitioner must attend the injunction hearing in order to receive an injunction against the respondent.

***8. CAN I HAVE A DOMESTIC ABUSE ADVOCATE COME WITH ME TO COURT?***

You can have an advocate come with you to the injunction hearing. You must inform the court orally or in writing of your choice of an advocate, called a service representative. This is done by either telling the court at the beginning of the injunction hearing or by completing a form called Service Representative Selection. If you are working with an advocacy agency, they will have this form for you to fill out.

***9. IF THE COURT ORDERS THE INJUNCTION, WILL THE RESPONDENT GET TO KEEP THEIR FIREARMS (GUNS)?***

If a domestic abuse or child abuse injunction is granted, the respondent will be ordered to surrender any firearms. In a harassment injunction, you can request that the court order the respondent to surrender their firearms, if you can show the court that the respondent may use them to cause physical harm to someone or to endanger public safety.

***10. IF THE COURT GRANTS A TRO OR AN INJUNCTION, WILL THE POLICE KNOW ABOUT IT?***

Yes. When the court orders a TRO or an injunction, the police are given a copy of the court's order. Violation of the order is a crime. If the police believe the respondent violated a TRO or an injunction, they may arrest the respondent. However, the respondent must have been served with the TRO or the injunction in order to be found in violation. It is a good idea for a petitioner to keep a copy of the petition with them at all times to prove there is an order.

***11. IF I AM FILING A DOMESTIC ABUSE TRO, DO I GET CUSTODY OF THE KIDS?***

No. If you are seeking a domestic abuse restraining order, the court is prohibited from ordering any custody, physical placement or child support orders. A separate action may need to be filed in Family Court. You may need an attorney to assist with issues about custody/physical placement.

***12. IF I AM FILING A DOMESTIC ABUSE TRO, DOES THE RESPONDENT HAVE TO STAY AWAY FROM THE KIDS?***

No. The TRO/injunction only restricts the respondent from making contact with the petitioner and does not include the children, unless a separate child abuse TRO/injunction order has been filed on behalf of

the children. It may be a good idea to plan to arrange any exchange of children through a third person so that there is no direct contact between you and the respondent.

***13. ARE THE TRO AND INJUNCTION GOOD IN OTHER PLACES BESIDES WISCONSIN?***

Yes. If the court grants a temporary restraining order or an injunction, the order should be enforced by the police in every state, territory, or tribe. A petitioner might want to carry their order with them to show it to a law officer in another place, if the respondent violates the order there. Enforcement of the order in other places is a law called full faith and credit of a foreign protection order.

***14. IS THERE SOMEONE ELSE I CAN TALK TO ABOUT TROS/INJUNCTIONS THAT CAN GIVE ME MORE INFORMATION?***

Yes. There is an agency in your area that may be able assist you in filing your temporary restraining order or injunction. The county where you are filing your temporary restraining order can provide you with contact information.