

RESTRAINING ORDERS & INJUNCTIONS WHAT THEY ARE & HOW THEY WORK

HARASSMENT

WHAT IS HARASSMENT?

Harassment is defined in the law as:

- Striking, shoving, kicking or otherwise subjecting another person to physical contact; engaging in an act that would constitute child abuse under Sec. 48.01 (1), sexual intercourse or sexual contact under Sec. 940.225 or stalking under Sec. 940.32; or attempts or threats to do the same.
- Engaging in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

WHAT CAN THE COURT ORDER?

The court can require the person to cease or avoid engaging in harassment. Since the type of activity that may be harassment in each case is different, the court may create an order that is specifically tailored to what the individual is doing that is considered harassment.

HOW DOES THE ACTION GET STARTED?

A petition is filed in the Circuit Court of the county where the petitioner resides, the respondent resides or where the incident(s) of harassment occurred. A petition must be filed by the alleged victim, parent, step-parent, or legal guardian of a child. The person who is asking the court to grant him or her some type of relief is the "petitioner." The person against whom the petition is brought is called the "respondent." The "victim" is the person who is the object of the harassment.

Petitioners should write their statements giving specific examples of the harassment. Make sure to include a brief description of every incident that took place that caused you fear or injury, along with date, time, and address of the incident starting with the most recent and work backwards.

EXAMPLE: On (date) at about (time) at (address) in (city) Wisconsin (name), whose address is (address, city, and state), did this: (write short statement), and I think I am in imminent danger of physical harm.

EXAMPLES of conduct: Told me s/he would hit me, S/he hit me, Told me s/he would slap me, S/he slapped me, Told me s/he would kill me, S/he threw me against a wall.

Note: These are only examples; do not copy examples of conduct word for word unless such conduct actually occurred.

Necessary forms are available at no charge on the Internet at www.wicourts.gov, or from the Clerk of Court in the Courthouse at 613 Dodge Street, Kewaunee, Wisconsin, or at the Violence Intervention Project, Inc., 1405 Division Street, Algoma, Wisconsin (920) 487-2111.

This sheet is issued to inform and not to advise. No person should ever apply or interpret any law without the aid of an attorney who knows the fact, because the facts may change the application of the law.

IS THERE A FEE?

The court will review the petition and determine whether the conduct alleged is exempt from a filing fee. If it is, there is no fee. If the conduct is not exempt from a filing fee, there is a filing fee of \$164.50

WHAT ABOUT SERVICE OF THE DOCUMENTS?

The documents that are filed must be served on the respondent. Someone other than the petitioner must do the service. Generally, the sheriff will serve the documents, but a private process server can also do it. The sheriff cannot charge a fee for service if no fee is required when starting the action. If a filing fee is required, the sheriff can also charge a service fee of \$60. A private process server will always charge a service fee.

WHAT IS AN "AFFIDAVIT OF SERVICE"?

The individual who serves the papers must provide an affidavit of service for filing with the court. The affidavit of service is a form prepared and signed under oath by the person who serves the papers on the respondent. The affidavit must recite how, when, where, and on whom service was made. This form must be filed with the court before the hearing or made available to the court at the hearing. The court requires proof that the respondent knows of the restraining order and the hearing. Without proof, the court will not proceed.

WHAT HAPPENS AT THE HEARING?

The judge or court commissioner will listen to the evidence. The parties and any witnesses may be sworn to give their versions of events. If there are facts to support the petition, the court will grant the injunction. If there are not enough facts, the court will dismiss the petition. If the injunction is granted, it can be issued for up to four years. If the respondent appears in court, he/she will be given a copy of the injunction. If the respondent does not appear, the petitioner will need to have the respondent served with a copy of the injunction.

AFTER THE HEARING

If the injunction is granted, you need to return to the Clerk of Courts office to receive authenticated copies, which will be provided to you for delivery to the Sheriff's Department and your local police department. If you work in another county, you may wish to provide copies to the Sheriff's Department in that county. It is also a good idea to keep two copies for yourself. One to keep on your person and one to keep at home.

WHAT SHOULD I DO IF THE RESPONDENT VIOLATES THE INJUNCTION?

Immediately call the police. In life threatening emergencies, dial 911.

WHO ELSE CAN I CONTACT FOR HELP?

If this involves domestic violence, dating violence, sexual assault, stalking, child abuse or sexual harassment please contact the Violence Intervention Project at (920) 487-2111 for help filing out forms. Helpline (920) 837-2424

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