

Pierce County



GUIDE TO TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS

- * Domestic Abuse
- * Harassment
- * Child Abuse
- * Individual at Risk

**Pierce County Victim/Witness
Assistance Program**
Pierce County Courthouse
414 West Main Street
Ellsworth, WI 54011
(715) 273-6749

(4/14/10 CMH)

Is a temporary restraining order/injunction right for me?

As a member of society you and/or your family have the right to feel safe at home, work, and in the community. If someone is violating these rights, you need to take the appropriate actions to protect yourself and/or your family. Depending upon your personal situation there are four types of temporary restraining orders/injunctions that can help protect you: Domestic Abuse, Harassment, Child Abuse, and Individual at Risk.

What is a restraining order?

It is a civil order issued by the court that prohibits different types of contact between individuals (petitioner - the person seeking the protection, and the respondent - the person against whom the protection is sought). The word for a more "permanent" restraining order is an injunction. An injunction can be granted for up to 4 years depending on the type of petition you file.

What if I need assistance?

The Pierce County Victim/Witness Assistance Program is available to help you with information about temporary restraining orders/injunctions; provide the paperwork; guidance in the filing process. This program is located in the District Attorney's Office in the Pierce County Courthouse.

TurningPoint for Victims of Domestic and Sexual Violence, Inc. in River Falls is available to help you fill out the paperwork; guidance in the process; provide a service representative to go with you to court; temporary shelter. They can be contacted via their 24-hour Crisis Line at (800) 345-5104.

Four types of orders

DOMESTIC ABUSE

Both individuals must be adults. Individuals must have been married, roommates, been involved in a dating relationship, or have a child(ren) in common. Domestic abuse is defined in the law as conduct that must include an intentional infliction of or threat to inflict physical pain, physical injury or illness; impairment of physical condition; or sexual contact or intercourse without consent. There must be facts showing imminent danger of physical harm before a temporary restraining order can be issued. The respondent can be removed from the residence.

HARASSMENT

Harassment orders only prohibit harassing type contact unless otherwise ordered by the judge and cannot remove the respondent from the residence. Harassing behavior is defined in the law as striking, shoving, kicking, or otherwise subjecting the petitioner to physical contact or attempting or threatening to do the same; or the respondent must have been engaging in a course of conduct or repeatedly committing acts which harass or intimidate the petitioner and which serve no legitimate purpose; or the respondent engages in stalking behavior.

CHILD ABUSE

Child abuse is defined in the law as physical injury inflicted on the child victim by other than accidental means, sexual intercourse or contact, sexual exploitation of the child victim; or the respondent must have permitted or required the child victim to violate prostitution laws or must have been involved in conduct which caused the child victim emotional damage. The respondent can be removed from the residence.

INDIVIDUAL AT RISK

An adult who has a physical or mental condition that substantially impairs his/her ability to care for his/her needs or an elder who has experienced, is currently experiencing, or is at risk of experiencing abuse, treatment without consent, confinement/restraint, neglect, or financial exploitation.

What is the process?

Step 1

Petition forms are available at the Clerk of Courts Office located at the Pierce County Courthouse on the top floor, but the clerks cannot help you fill out the forms. When applying for a restraining order it is helpful to have the dates that the incidents occurred as well as the nature of the incidents. You must know the respondent's address in order to file the petition.

There may be a \$164.50 fee to file a Harassment Petition against an adult respondent. However, if you do not have that amount of money, you may file an Affidavit of Indigency and the filing fee may be waived. All other petitions are free to file.

Step 2

The completed forms must be filed with the Clerk of Courts Office or Probate (if juvenile respondent on Harassment Petition). Your signature will be notarized and a judge or court commissioner will review your petition, and if approved, s/he will sign it and issue a temporary order that will be in effect until the scheduled court date/Injunction Hearing, which will be held within 14 days. The Clerk of Courts staff will provide you with copies of the papers. You will then need to contact law enforcement and have the papers served to the respondent. NEVER give the respondent the legal papers yourself.

Who must appear in court at the Injunction Hearing?

The petitioner must appear in court and may bring others for support. Witnesses, medical records, pictures of the injuries, and other documentation are all helpful. Be prepared to testify under oath. You will be asked questions. The respondent may or may not be present at the hearing but must be served notification of the hearing at least 48 hours in advance. The respondent can also testify as well as any witnesses s/he may have. You have the right to question the respondent and his/her witnesses.

Do I need an attorney?

No. But, you may wish to hire or consultant an attorney prior to your Injunction Hearing. The respondent may hire an attorney to represent him/her and if so, you may wish to reconsider obtaining legal counsel.

What if the respondent violates the order?

If the respondent violates the order, REPORT IT TO LAW ENFORCEMENT IMMEDIATELY AND EVERY TIME. There are criminal penalties for respondents who knowingly violate valid orders and Wisconsin law enforcement officers are mandated to make an arrest when they believe an order has been violated. **Keep a copy of your order with you at all times.** Law enforcement in every state, territory, and tribe should enforce your order.

Practical Points to Remember

Violence should not be accepted as normal behavior. No one deserves to be abused. Statistically, the pattern of abusers is for the behavior and violence to become worse with time.

Respondents may be angry when they receive the temporary restraining order. The anger most likely will be directed at you. Take all steps to insure your safety. Have a safety plan in place for you and your children. A restraining order alone may not keep you safe. It is only part of a safety plan.

You must not contact the respondent in any way.

At an Injunction Hearing, the court will not deal with division of property or custody of any children or visitation or other issues which might arise in a family court action.

The judge or court commissioner must approve any changes in the court order.

This is a difficult step to take, but it is an important step for your safety. You are not alone. There are people who care and want to be part of your support system.

You enforce your restraining order. By reporting violations each and every time to law enforcement. Call 911 in an emergency.

This document gives general information about temporary restraining orders/injunctions. It is not intended to give specific legal advice to any individual. If you need specific legal advice you should consult an attorney.