

QUESTIONS

I. OVERVIEW

	DOMESTIC ABUSE SECTION 813.12	CHILD ABUSE SECTION 813.122	INDIVIDUALS AT RISK (IAR) SECTION 813.123	HARASSMENT SECTION 813.125
<p>1. What is the process to obtain a restraining order?</p> <p><i>This information is the same for all types of restraining orders.</i></p> <p><i>Filing a restraining order is usually a two-step process. See Question 13</i></p>	<p>Step One: Complete Petition for Temporary Restraining Order (TRO) and File</p> <p>Filing a TRO is an ex parte proceeding. This means only one party is filing the petition. Thus, the respondent does not need notice of the filing of the TRO petition.</p> <p>Once complete, take the TRO to the courthouse to file. Bring identification, as it is required to file the petition.</p> <p>After you give the petition to the clerk, you will be asked to wait while the clerk finds a judicial officer to review the petition/make a decision. The judge or circuit court commissioner will review the TRO petition. That person may ask you questions. However, you might not see the person at all.</p> <p>The court will grant/deny the TRO. If the judge or circuit court commissioner does not meet with you, the court will have the clerk return the signed or denied TRO to you.</p> <p>If the TRO is granted, the clerk must provide the sheriff with a copy of the TRO and injunction for service. The sheriff shall assist the petitioner with the service. §§813.115, 813.12(6)(a), 813.122(9)(a), 813.123(8)(a), 813.125(5g).</p> <p>If the TRO is denied, and the petitioner requested an injunction hearing on the TRO petition, the petitioner must provide the respondent with notice of the injunction hearing. This means there is no TRO prior to the hearing.</p> <p>The TRO process is complete when the petitioner does the following:</p> <ol style="list-style-type: none"> 1. Complete the petition. 2. File the petition with the court. 3. Wait while the court reviews the petition and grants or denies; if granted, court sets a date/time for the injunction hearing. 4. Make sure the respondent has notice of the injunction hearing if a hearing date is scheduled. 		<p>Step Two: Attend Injunction Hearing</p> <p>The injunction hearing must happen within 14 days of issuance of the TRO unless there is a one-time 14-day extension. If the extension is granted, be sure that proof of service has been provided to the court prior to the new date of the injunction hearing.</p> <p>There is no injunction hearing unless the petitioner provides notice of the hearing to the respondent. If the respondent cannot be located, the petitioner can attend the injunction hearing to ask for an extension of the TRO to allow service by publication for either a domestic abuse or harassment restraining order. Service by publication is not possible for individuals at risk or child abuse restraining orders.</p> <p>Injunction hearings vary. Basic process:</p> <ol style="list-style-type: none"> 1. Court asks who is present. 2. Petitioner testifies. 3. Respondent can conduct cross-examination of the petitioner (ask questions of the petitioner). 4. Witnesses for petitioner testify; respondent can cross-examine. 5. Petitioner can cross-examine respondent. 6. Witnesses for respondent testify; petitioner can cross-examine. 7. Testimony is sometimes limited to only what was stated in the petition. 8. Cross examination is to be limited to ONLY what was said by the party. 9. Common objections to questions on cross examination are “not relevant” or “hearsay.” Allow the court to rule on an objection prior to testifying. <p>The Injunction hearing is completed when:</p> <ol style="list-style-type: none"> 1. Hearing is scheduled and service occurred. 2. The court conducts a hearing by asking questions or has parties/witnesses testify. 3. Parties bring/give “proof” about incidents. Parties may need to know how to present evidence. 4. If a GAL has been appointed, court hears GAL recommendation. 5. Court makes a decision to deny or grant order. <p>See §813.12, §813.122, §813.123, or §813.125.</p>	