

WILL THE COURT APPOINT AN ATTORNEY TO REPRESENT ME?

No. This is a civil action. The state or county does not provide attorneys at public expense to represent people in civil actions. You may hire your own attorney to assist you, if you wish.

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 version of the 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 served with 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

agency. If you work in another county, you may wish to provide copies to the Sheriff's Department in that county.

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?

In Washington County, contact Friends of Abused Families at 334-5598 or their crisis lines: 334-7298
334-7725

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RESTRAINING ORDERS & INJUNCTIONS

WHAT THEY ARE & HOW THEY WORK

Domestic Abuse



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WHAT IS DOMESTIC ABUSE?

Domestic abuse is defined in the law as an intentional infliction of or threat to inflict physical pain, physical injury or illness; impairment of physical condition; or sexual contact or sexual intercourse without consent. There must be facts showing an imminent danger of physical harm before a temporary restraining order can be issued.

The abuse must have been committed by:

- A spouse, former spouse, parent, child, or a person related by blood or adoption to you.
- A person currently or formerly residing in a place of abode with you.
- A person with whom you have a child in common.
- A person who provides in home or community care for you.
- A person with whom you have or had a dating relationship.

WHAT CAN THE COURT ORDER?

The Court can require the abuser to:

- Refrain from committing any further acts of domestic abuse against the victim
- Avoid the victim's residence and any location temporarily occupied by the victim.

- Avoid contacting or causing any other person (other than an attorney or law enforcement officer) to contact the victim.

HOW DOES THE ACTION GET STARTED?

The victim of the domestic abuse must file a petition, or a guardian of an incompetent individual may file it.

A petition is filed in the Circuit Court of the county where the petitioner resides, the respondent resides or where the incident(s) of abuse occurred. The person who is asking the court for assistance is the "*petitioner*." The "*respondent*" is the person against whom the petition is brought.

IS THERE A FEE?

No. There is no filing fee to start an action.

WHERE DO I GET THE FORMS?

The forms are available in the Clerk of Court's office, and when completed are filed with the Clerk of Courts.

WHAT ABOUT SERVICE OF THE DOCUMENTS?

The documents that are filed must be *served* on the respondent. Someone other than the petitioner must do service. Generally, the sheriff will serve the documents, but a private process server can also do it. The sheriff cannot charge for service, but a private process server would charge the petitioner a 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 that proof—from an unbiased source—the court will not proceed.