



Juvenile Injunction FAQs

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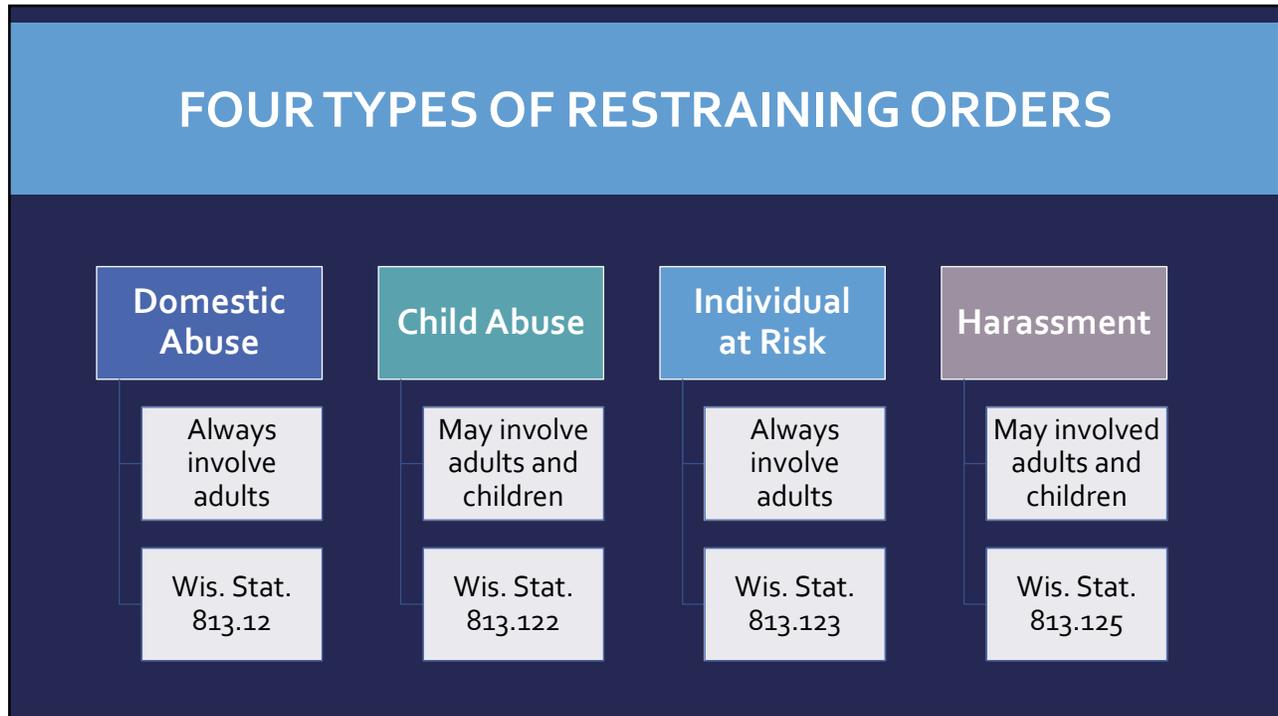
Juvenile Clerks Meet Up
June 2022

OVERVIEW – FAQs RELATED TO:

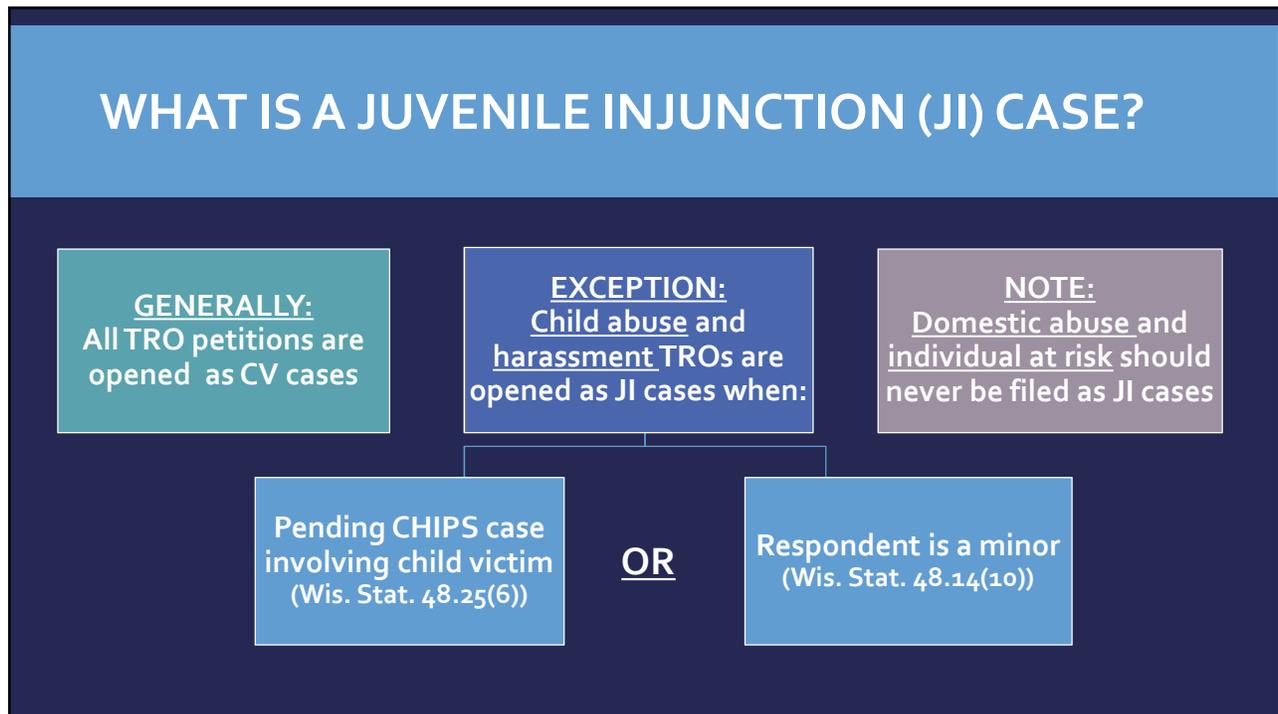
- What is a JI case?
- Basic restraining order terminology
- Filing fee
- Firearms prohibitions
- Forms
- Confidentiality
- Service
- GAL Appointment
- Retention



FOUR TYPES OF RESTRAINING ORDERS



WHAT IS A JUVENILE INJUNCTION (JI) CASE?



TEMPORARY RESTRAINING ORDER VS. INJUNCTION

Temporary Restraining Order (TRO)

- Granted *ex parte* and without a hearing
- Valid for 14 days, unless extended by the court
- Firearms surrender requirements do not apply

Injunction

- Granted after full due process hearing
- Generally valid for 2-4 years, but can be extended up to 5-10 years, or permanently
- Firearm surrender requirements do apply
 - Even if respondent does not appear at the injunction hearing



PETITIONER VS. RESPONDENT



Petitioner

- Person seeking protection against harm
- Files paperwork asking the court to issue a TRO/injunction

Respondent

- Person against whom protection is being sought
- Petitioner is asking the court to order the respondent to stop behaving in a certain way
- Respondent is served with the TRO/injunction

FILING FEE



Domestic Abuse, Child Abuse, Individual at Risk

- No filing fee to commence action

Harassment

- No filing fee for JI case (Wis. Stat. 48.25(6))
- May be a fee for CV cases
- If petitioner alleges conduct that is the same or similar to domestic abuse, no filing fee – it is waived
- Court makes determination based on the facts in the petition

FIREARMS RESTRICTIONS



Mandatory Firearms Restriction

- Domestic abuse
- Child Abuse
- "An injunction ... shall ... require the respondent to surrender any firearms that he or she owns or has in his or her possession..."

Optional Firearms Restriction

- Harassment
- Individual at Risk
- If the court determines "... that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the judge or circuit court commissioner may prohibit the respondent from possessing a firearm."

FIREARMS SURRENDER REQUIREMENTS

Court is required to hold a firearms surrender hearing when:

Court issues domestic abuse, child abuse, individual at risk (w/ firearm restriction), or harassment injunction (w/ firearm restriction)



Court finds that the respondent possesses firearm(s)

For more information, see "Firearms surrender procedures for clerks" under Civil / Small Claims Model Recordkeeping Procedures (or contact Amber)

WHAT FORMS ARE USED?



JJ Case – Child Abuse

- Petition in Juvenile Court for TRO (Child Abuse) (JC-1690)
- Temporary Restraining Order (Child Abuse) (JC-1691)
- Injunction in Juvenile Court (Child Abuse) (JC-1692)

JJ Case – Harassment

- Petition in Juvenile Court for TRO (Harassment) (JC-1693)
- Temporary Restraining Order (Harassment) (CV-406)
- Injunction (Harassment) (CV-407)

CONFIDENTIALITY OF RESTRAINING ORDER CASES



Jl Case – Child Abuse and Harassment

- Records and hearings are confidential
- Automatically a confidential case type in CCAP

CV Case – Child Abuse

- Records and hearings are confidential for cases filed on or after April 18, 2014
- Automatically a confidential case type in CCAP

CV Case – Harassment

- Open records and hearings
- Only confidential if sealed/closed by the court, even if the case involves a minor

SERVICE OF TROS AND INJUNCTIONS

- Once a TRO or injunction is granted, the clerk of court shall forward it to the sheriff and “the sheriff shall assist the petitioner in executing or serving” the order (Wis. Stat. 813.12(6)(ag)1., etc.] (effective June 1, 2016)
- Clerks may email paperwork to sheriff (See Informational Bulletin 19-02)
- Use Respondent’s Information for Service by Sheriff (CV-420) (released Nov. 2019)
- Petitioner may use a private process server, but cannot be required to obtain one
- Applies to four restraining order types, including Jl cases

RESPONDENT'S INFORMATION (CV-420)

- Not necessary to maintain in court file – can just be sent to sheriff
- If it is kept in the court file, it is a confidential record

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	Respondent's Information for Service by Sheriff
-vs-	Case No. _____
<p>The information contained in this form will assist the sheriff's department in serving the respondent with any documents that require personal service, including the temporary restraining order and injunction. Although you may not know all of the requested information, filling out this form as completely and accurately as possible will help avoid unnecessary delays in service. The information contained in this document is confidential and will not be shared with the respondent.</p> <p>If the temporary restraining order and/or injunction is granted, are you requesting that the sheriff's department serve the documents on the respondent? <input type="checkbox"/> YES <input type="checkbox"/> NO (You may hire a private process server at your own expense.)</p>	
RESPONDENT'S INFORMATION [PERSON WHO IS BEING SERVED]:	
Name of respondent (First, Middle (if), Last): _____	
Street Address: _____ APT. #: _____	
City, State, Zip Code: _____ Alias/Nickname(s): _____	
Home Phone Number: _____ Cell Phone Number: _____	
Sex: _____ Race: _____ Height: _____ Weight: _____	
Date of Birth: ____/____/____ (If unknown, approximate age: ____)	
Hair Color: _____ Eye Color: _____ Languages Spoken (other than English): _____	
Other Distinguishing Features (tattoos, scars, glasses, facial hair, etc.): _____	
Best time to serve at home: _____	
Best time to serve at work: _____	
Employer Name: _____ Employer Address: _____	
Employer Phone Number: _____ Work Schedule: _____	
Make/Model of Vehicle: _____ License Plate No. (if known): _____	
Vehicle Color (including unique characteristics such as paint, dents, etc.): _____	
Additional information to help sheriff in locating the respondent (other places the respondent may be staying, including addresses; any other court dates): _____	
Does the respondent carry or possess any weapons? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, how many, what kinds, and where are they carried/stored? _____	
Is the respondent a heavy drinker? <input type="checkbox"/> Yes <input type="checkbox"/> No _____ Drug user? <input type="checkbox"/> Yes <input type="checkbox"/> No _____	

WHEN MUST A GAL BE APPOINTED?



Child Abuse (Wis. Stat. 813.122(3)(b) 1m. and 2m.)

- The court shall appoint a GAL if the respondent is a parent of the child
- The court, on its own motion or the motion of the parties, may appoint a GAL for the child victim in other situations

Harassment (Wis. Stat. 813.125(2g))

The court, on its own motion or the motion of the parties, may appoint a GAL for the child who is a party "when justice so requires"

Chapter 48, generally (Wis. Stat. 48.235(1)(a))

The court may appoint a GAL in any appropriate matter under this chapter

HOW LONG MUST YOU RETAIN A JI CASE?

Retention Period for Restraining Orders (CV cases), Generally

20 years after entry of final order – SCR 72.01(1)

Retention Period for Juvenile Cases, Generally

4 years after child's 18th birthday – SCR 72.01(42m)

No Specific Retention Period for JI Cases in SCR 72 – Options...

- Destroy the file 4 year after the child's 18th birthday
- To be safer, destroy the file after the child's 28th birthday in case there was a 10-year injunction issued
- To be really safe, destroy the file after 20 years, consistent with the civil retention period

NEW LAW – PERMANENT INJUNCTIONS

2021 WI Act 256 – Effective April 17, 2022

- Upon request of the petitioner, court may order a permanent injunction if the respondent has been convicted of 1st, 2nd, or 3rd degree sexual assault against the petitioner
- Applies to all of restraining order types
- Could apply to JI cases if there is a pending CHIPS case or, possibly, if the respondent is a minor and was adjudicated of 1st, 2nd, or 3rd degree sexual assault

Updated Forms

- RMC approved changes to all TRO petition and injunction forms, including JI forms
- Updated forms will be released soon

QUESTIONS?



CONTACT INFORMATION

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