

DIFFERENCES BETWEEN DOMESTIC ABUSE AND HARASSMENT

	Domestic Abuse Restraining Order § 813.12	Harassment Restraining Order § 813.125
Does it cost money to file a restraining order?	No. § 814.61(1)(d) .	Maybe. No fees charged if petition alleges domestic abuse behavior as listed in § 813.12(1)(am) 1 to 6 or stalking behavior in § 940.32 . Judge makes decision. § 814.61(1)(e) . If indigent, petitioner can petition for fee waiver using Form CV-410A.
What can the court tell the respondent to stop doing?	The court may order the respondent to stay away from the petitioner; to not engage in domestic abuse; or a combination of these things; allow petitioner or family member or household member of petitioner to retrieve household pet. § 813.12(3)(a) and (4)(a) .	The court may order the respondent to stop harassing or intimidating the petitioner and can allow petitioner or family member or household member of petitioner to retrieve household pet. §§ 813.125(3)(a) and (4)(a) . The court cannot automatically order no contact; the court must enjoin specific behavior proven at the hearing or substantially similar conduct. <i>Bachowski v. Salamone</i> , 139 Wis. 2d 397, 414 (1987).
Are there any other orders a court may make?	Upon request by petitioner, court may order a wireless telephone service provider to transfer to petitioner the right to continue to use a telephone number/s indicated by the petitioner and financial responsibility associated with the number/s.	Upon request by petitioner, court may order a wireless telephone service provider to transfer to petitioner the right to continue to use a telephone number/s indicated by the petitioner and financial responsibility associated with the number/s.
Who can file for this type of restraining order?	This order can only be filed by an adult victim against an adult respondent. The respondent must be a family member; household member; person in dating relationship; person with whom the petitioner has a child; spouse or former spouse; or an adult caregiver who is harming the petitioner who is an adult under the caregiver's care. §§ 813.12(1)(am) , (5)(a)(1) . A guardian can also file on behalf of a legally incompetent adult. § 813.12(5)(d) .	This order can be filed by anyone alleging harassment, whether filed by a minor or an adult AND whether the harassment is being done by an adult or a child. § 813.125(2)(b) .
What kind of abuse must have happened before someone can file for this type of a restraining order?	Physical abuse, sexual assault: 1 st , 2 nd , or 3 rd degree; placing the person in a life-threatening position [called intentional impairment of physical condition], destroying the petitioner's personal property, stalking, or threats to do any of these things. § 813.12(1)(am) .	Physical abuse, sexual assault: 1 st , 2 nd , 3 rd , or 4 th degree; stalking; child abuse under § 48.02 ; or threats/attempts to do the above; or engaging in a course of conduct designed to harass or intimidate that serves no legitimate purpose. § 813.125(1)(am) .

	Domestic Abuse Restraining Order	Harassment Restraining Order
If the court does not grant the TRO, can the petitioner still be given a date for an injunction hearing?	Yes. § 813.12(2m) .	Yes, but only in two situations. See § 813.125(2m) : (1) The petition alleges stalking behavior; (2) The petition alleges domestic abuse behavior under § 813.12(1)(am) 1-6 in the petition.
How long will an injunction last?	For the length of time the petitioner asks for it, up to 4 years. § 813.12(4)(c) . Petitioner may request a 10-year extension IF there is substantial risk of 1 st or 2 nd degree homicide or 1 st , 2 nd , or 3 rd degree sexual assault to petitioner by respondent. § 813.12(4)(d) .	For the length of time the court decides is appropriate, up to 4 years. § 813.125(4)(c) . Petitioner may request a 10-year extension IF there is a substantial risk of 1 st or 2 nd degree homicide or 1 st , 2 nd , or 3 rd degree sexual assault to petitioner by respondent. § 813.125(4)(d) .
Can the court extend an injunction?	Yes. When an injunction granted for less than 4 years expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her; the extension shall remain in effect until four years after the date the court first entered the injunction. See also <i>Switzer v. Switzer</i> , 2006 WI App 10. A petitioner may request an extension for up to 10 years IF there is a substantial risk of homicide or sexual assault to petitioner by respondent. § 813.12(4)(c) and (d) .	Yes. A petitioner may request an extension for up to 10 years IF there is a substantial risk of 1 st or 2 nd degree homicide or 1 st , 2 nd , or 3 rd degree sexual assault to petitioner by respondent. § 813.125(4)(d) .
Is the court mandated to order firearms surrender?	Yes. If the injunction is granted, the respondent must surrender any firearms he/she owns or has in his/her possession. § 813.12(4m)(a) . When respondent is served with petition, respondent should also be informed of procedures for surrendering a firearm under 813.1285 and be given a firearm possession form with instructions for completing and returning the form. § 813.12(2)(c) .	No. It is not automatic. If the court issues an injunction and determines – based on clear & convincing evidence – that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the court may prohibit the respondent from possessing a firearm. § 813.125(4m)(a) . If the court orders firearm surrender, respondent should also be informed of procedures for surrendering a firearm under 813.1285 and be given a firearm possession form with instructions for completing and returning the form § 813.125(4)(a) .
Can the sheriff come with the petitioner to help gain possession of the residence if the order is granted?	Yes. If the petitioner makes this request on the petition, the court must order the sheriff to accompany the petitioner to be placed in possession of the residence. § 813.12(6)(a) .	Yes. If the petitioner makes this request on the petition, the court must order the sheriff to accompany the petitioner to be placed in possession of the residence. § 813.125(5g)(c) .

Differences between Domestic Abuse and Harassment (current as of 07/22)

This document does not constitute legal advice.