



Podcast Transcript

March 2024: Restraining Orders and Safety 2.0

Presented by Aspen, Survivor Advocate and Fio, Advocacy Program Supervisor

ASPEN: Hello and welcome to the Women's Center's CONVO, a podcast hub that shares helpful insight for survivors, community members and service providers alike, formerly known as Wednesday Workshop. CONVO stands for Creating Opportunities for Non-Violent Outcomes, and we invite you to learn more about this initiative on Instagram at [@convo_twc](https://www.instagram.com/convo_twc).

The Women's Center is based out of Waukesha, Wisconsin. We welcome and serve survivors of all ages, races, gender identities, sexual orientations, abilities, nationalities, and immigration statuses. The mission of The Women's Center is to provide safety, shelter, and support to empower all impacted by domestic abuse, sexual violence, child abuse and trafficking. Each session will feature instruction on a healing topic. Today, our topic is Restraining Orders and Safety. We are your hosts; My name is Aspen and I'm a Survivor Advocate here with The Women's Center.

FIO: My name is Fiorella, or everybody calls me Fio. I am the Advocacy Program Supervisor. I work mainly with our Spanish-speaking community and our Legal Advocacy program, and I am excited to share what I know about restraining orders.

ASPEN: Awesome! Fio and I, along with our other advocates at The Women's Center, can provide support in Legal Advocacy. We provide advocacy and support through the restraining order process (which we'll be talking about today), and also service representation at court (also known as court accompaniment), attorney referrals, and assistance navigating the courthouse here in Waukesha. We can also provide some support and referrals in family court for separation and divorce, sexual assault or other criminal trials, immigration and abuse, etc. We can provide support in a range of topics.

Legal Advocates at The Women's Center are not attorneys, and we do not provide legal advice. The information presented in this podcast is not legal advice either, does not function as a do-it-yourself tool for completing restraining orders, and is accurate per Wisconsin State Statutes and the Waukesha County Courthouse at the time of this recording in March 2024. If you have additional questions or if you are outside of the

Greater Milwaukee area, please contact your local domestic violence or sexual assault agency for some of that additional support. For legal advice, please contact an attorney.

FIO: We're going to start talking a little bit about safety planning. It's important to understand what safety planning all encompasses. Restraining orders aren't a part of everyone's safety plan, and that's okay. Each situation is different, and you know yours best.

Safety planning is a personalized, practical plan that addresses ways to stay safe while you're in an abusive situation, while you're planning to leave, as well as maintaining safety after you leave. And, it may look different for everybody like changing locks, packing a "go bag", teaching kids a code word for when abuse escalates, seeking remedies in the legal system, learning grounding strategies to be calm, and more. I would suggest listening to our previous podcasts on safety planning, or contact an Advocate if you're looking for more information on the topic or want to create your own. There will also be some safety planning resources attached to this episode on our website.

ASPEN: So what is a restraining order? You may have heard this referred to as an RO, an injunction, a protection order, a no contact: it goes by a lot of different names. Essentially, a restraining order is a court order that orders somebody not to hurt or harass you, to stay away from you, to perhaps move out of the home if you live together, or to have no contact with you. This takes place in civil court and is not the same as reporting an abuser to the police. That said, if your abuser does violate the restraining order, you will need to contact law enforcement and your abuser will be arrested for violating the order.

The most common restraining orders filed with our Advocates here are Domestic Abuse and Harassment restraining orders, and those will be what we're talking about today. There are also Child Abuse restraining orders and Individual At-Risk restraining orders, typically used for elder adults. Those are the other two forms of restraining orders that you can file for in Wisconsin. But again, we will be looking at Domestic Abuse and Harassment orders specifically.

FIO: Like Aspen was saying, I'm going to touch on what the statutes specifically say about Domestic Abuse versus Harassment restraining orders. We cannot tell you which one you need to file for; that is something that is up to each individual to decide, but we can explain the statutes and support you in your decision of which is best for your situation. The person completing the petition is called the petitioner, and the person you filed against is called the respondent, as we'll be referring to them as.

So when it comes to Domestic Abuse, the statute 813.12 says physical abuse, sexual abuse, placing the person in a life-threatening condition (called intentional impairment of physical condition), destroying the petitioner's personal property, stalking, or threats to do any of these things. Basically, when we talk about destroying a petitioner's personal property, this could be throwing your phone; impairment of physical condition could be blocking the doorway of a room, stuff like that could all potentially qualify for a Domestic Abuse restraining order. It's important to mention that these are filed adult versus adult. The respondent must be a family or household member, dating partner, current or former spouse, person with a child in common, or adult caregiver to another adult.

To talk about Harassment restraining orders and the statutes, this one is 813.125. This says threats of physical and/or sexual abuse, stalking, child abuse under 48.02, or engaging in a course of conduct designed to harass or intimidate that serves no legitimate purpose. I think it's very important to emphasize the part about no legitimate purpose; that is what the court often focuses on, that there's no reason for them to be either following you or just harassing you in general. This can be filed by anyone alleging harassment, whether filed by a minor and adult and whether the harassment is being done by an adult or a child. It's also important to mention that here in Wisconsin, we cannot include children or other family members in the petitions, as each individual would need to file separately.

ASPEN: To highlight some more differences between the Domestic Abuse and the Harassment restraining order, there is a difference in fee. In the Domestic Abuse restraining order, there is no fee involved with filing; however, with the Harassment restraining order, there is a filing fee of \$164.50 involved unless you are alleging domestic abuse or stalking behaviors have happened. You may also file a fee waiver form if you are "indigent" or unable to afford the fee, and a judge will decide whether to waive it for you.

Another key difference between the Domestic Abuse and the Harassment restraining order is the requirement for the respondent to surrender their firearms. For the Domestic Abuse restraining order, surrendering guns is court-mandated; the respondent will need to surrender their firearms if the injunction is granted, and even hunting firearms will need to be relinquished. This is something extremely important to take into consideration of your overall safety plan. The respondent will not be allowed to possess any firearms for the entire duration of the restraining order, usually 4 or up to 10 years. For the Harassment restraining order, there is no court-mandate for a respondent to surrender their guns, though you can request it. To give an example, somebody could qualify and meet all of the statutes for the Domestic Abuse restraining order. However, they may feel that they might put themselves more at risk of an abuser retaliating with that court-ordered surrender of firearms, so they may choose to file a

Harassment restraining order instead. Again, all of this needs to take into account your personal safety situation and what your overall safety plan will look like.

FIO: Definitely, now let's talk a little bit more about the process of the restraining orders. A restraining order is a two-step process, and you start the process by completing paperwork to petition for a temporary restraining order, also known as a TRO. The paperwork for restraining orders can be found at www.wicourts.gov. Once you file a TRO petition, the court decides whether or not to issue a TRO based on the information you write in your petition, and part of that information that is key is your statement. If the court grants the TRO, the court will schedule a hearing for you to come back to court within two weeks from when you filed, called the injunction hearing. The TRO will provide protection as you wait for the hearing.

At that hearing, you will ask the court to order a final order of protection which is called an injunction. An injunction can typically be granted for up to four years for Domestic Abuse and Harassment, and in some instances, where the court believes there's substantial risk for the respondent to commit homicide or sexual assault against the petitioner, they might grant the injunction for up to 10 years. More recently, a restraining order can be made permanent if the respondent ends up committing first, second, or third-degree sexual assault against you and is convicted in criminal court.

ASPEN: So we've started to go through the meat of what these restraining orders are, let's start looking at how we can actually file them. There is always the option to file in-person: you fill out the paperwork and hand it in, and you should be notified usually within the same day or next whether or not your TRO has been granted and when that court date will be. A newer and popular option is the option to eFile. Instead of handwriting everything, you can submit everything electronically by eFiling.

If you're concerned about your address or contact information being given to your abuser, there are also address confidentiality forms that you can fill out. This makes it so that information is not on any court documents, or on public court access websites like CCAP either. If you're concerned about any ongoing address confidentiality, we do have the Safe at Home program in Wisconsin. This can be an additional part of that safety plan; again, a lot of advocates here at the Women's Center can help you with that. Contact us or your local program for more information on address confidentiality programs as there are multiple statewide programs in the US.

Like Fio mentioned earlier, some key pieces of the restraining order are the statement as well as evidence or exhibits. Exhibits are anything that can substantiate the claim that you're making; in other words, that domestic abuse, sexual assault, harassment, or stalking has taken place. This can look like screenshots from text messages or emails, photos and videos, and more. They may take these or statements from others as part of

supporting evidence, but each case is different. If you don't have any exhibits, you may still choose to file with only your statement.

Statements are your account of the abuse and establishing a timeline and context of the relationship between you and the respondent. This is key for the judge or commissioner to determine whether or not the temporary order is granted. Consider it a little bit of a snapshot into what's going on, keeping in mind the most important reasons why you are seeking a restraining order. We will be including some tips on how to write a restraining order statement on our website too.

FIO: Yes, definitely, a little snapshot of what's going on, and also the relationship between the petitioner and the respondent. Because remember, whoever is reading this—the commissioner or the judge—does not know you, and they need to get an idea of what the relationship looks like and why they should grant this protection.

Let's talk about a little bit more about what to expect while in court. The court asks who is present. The petitioner must attend the hearing, but it is optional for the respondent to attend or not. The petitioner must notify the court orally or in writing if a victim service representative is present, somebody like Aspen or myself, an Advocate. You can bring any additional supports that you'd like, whether you're having them testify as witnesses or not. You may also choose to get an attorney to help you with your case.

The petitioner testifies. The petitioner or attorney present the evidence of alleged abuse. Testimony might be limited to only what is stated in the petition unless you bring more evidence. Here in Wisconsin, every time you bring evidence it should be three copies of everything: one for you, for the other party, and the court. The respondent (if present) or their attorney has the right to cross-examine the petitioner or ask them questions. Witnesses for the petitioner testify next, and again the respondent or their attorney can do the cross-exam questions. The respondent testifies next, and the petitioner or their attorney can do cross examination as well. Witnesses for respondent testify, and same then the petitioner or their attorney can cross-examine witnesses.

Cross-examination is to be limited to only what was said by the party during the testimony. Common objections during the hearings may be that what they've shared is irrelevant (meaning outside the scope of what the person is saying) or hearsay (statements be made by a third party outside of court that can't verify what has been said). For example, let's say you bring a police report and you want to refer back to that. If the police officer who wrote it is not present, they might not accept that police report. Allow the court to rule on an objection before responding or testifying. We'll include a video from our state coalition, End Domestic Abuse Wisconsin, that shares examples of this process in more detail.

Now in preparing for court, I would suggest you practice your testimony leading up to the hearing. It's important to feel comfortable with your story, maybe a little timeline in your head of how things went down. Also, some judges and commissioners don't like

when people have papers in front of them or are reading straight out of a paper; they would like you to talk based on what you remember, so practicing can help with that. Determining arrangements for children and transportation is important. Children are not allowed in the courtrooms, so knowing who's going to watch your children or where they're going to stay during the hearing is crucial. Usually these hearings are held pretty early in the morning, so planning ahead of time, leaving with enough time, ensuring time off of work or school are all things to consider.

Lastly, how can we support you as advocates? We can help by making referrals to attorneys, come with you to the court hearing, meet before the hearing to prepare for court, and even continue to be a support after the court date.

ASPEN: That in-person support can be so helpful in that time because it can be really scary, especially if your abuser does show up.

So what's next? Things are going to look different, of course, whether the injunction is granted or if it is not granted. Let's start with if that injunction does get granted, you've gotten that up to four years of protection from your abuser. You're going to want to keep that restraining order on you at all times. You can also give a copy to a trusted neighbor, a friend or family member. You may also want to provide a copy of the restraining order to your workplace, to your school, or your residence if you're living in a larger building. If your abuser violates that protective order, you're going to want to call the police at that point immediately. The restraining order is valid across the United States due to something called "full faith and credit"; however, if you are moving states, it's important to alert the jurisdiction that you're moving to that you have this restraining order.

It's also important to think of alternative ways to keep safe if the police don't respond right away, make sure you can notify a friend or family member, or you're in a room where you're not going to be blocked in or that there's not access to weapons if that abuser does show up and you're waiting for the police. And once again, informing family, friends, neighbors, and even healthcare providers too that you have a restraining order in effect all can be helpful. The safety planning doesn't stop as soon as the injunction is granted. It's something ongoing, it's a process and a practice to ensure your safety going forward.

If the injunction is not granted, that also does not mean the safety planning stops either, it'll just start to look a little bit different. It also doesn't mean what you've experienced isn't true or valid, we still believe you and you still deserve safety. That said, we're going to want to rework that safety plan to meet some new needs without that restraining order in place. This may look like notifying friends or family members of the most up-to-date situation. That could also look like changing your locks, participating in the Safe at Home program if your abuser does not know where you're currently staying, and if it's appropriate or accessible, some folks even consider moving or relocating to make sure that their abuser does not know where they are.

You may also ask for something called a de novo review. So this is where a circuit court judge conducts the same hearing which the commissioner conducted as if that first hearing never took place. So essentially, it's not an appeal, but more of a do-over of that injunction hearing; you will have to fully testify and present evidence again just like the first time, and we can and will continue to provide support to you throughout the process. It is one option that a survivor may choose and of course, specific details will vary based on your case; any questions are best answered by an attorney. As far as other court proceedings you may have alongside this case, the denial or the dismissal of a restraining order will not jeopardize your ability to separate or divorce, it should not affect any custody/placement orders or criminal cases where you are the victim. This is an entirely separate case.

Again, something very, very important to remember as well, and I can't stress this enough: if your injunction was not granted, it does not mean that the abuse didn't happen. You still deserve that safety. You deserve that respect. And ultimately, you deserve that life free from abuse. It's going to hurt, take some time to process those emotions and grief, and be gentle with yourself. While you may doubt your experience after this, know that again, we believe you and we support you, and we will continue to be here for you as well. Always.

FIO: Definitely. I think sometimes people are discouraged or feel that because they haven't shared their story before and it's been something that has been happening for so long, people are not going to believe them. But like Aspen was saying, don't get discouraged and don't feel invalid. I also want to just remind you that the information presented in this podcast is not legal advice, does not function as a do-it-yourself tool for completing restraining orders, and it's accurate per Wisconsin State Statutes and the Waukesha County Courthouse as of this recording in March 2024. I suggest you contact your local domestic violence or sexual assault agency for additional support, and an attorney for specific legal advice.

I know every restraining order is specific to the survivor's situation and needs. Not every single survivor completes a restraining order and like we said at the beginning, that's okay. It's sometimes not a good thing or a safe thing to do for everyone. Only you know if a restraining order is necessary for your safety, as with any part of your safety plan, and remember, you are the expert. We just get to be your cheerleaders and paper-pushers through this process.

ASPEN: Absolutely. Definitely. Thank you all so much for joining us to learn more about Restraining Orders and Safety today. Stay tuned to our website for future episodes, and feel free to take a look at our past episodes too.

The Women's Center focuses our work in partnering with clients to overcome barriers and gain a life free from violence. Our work is grounded in equity, upheld by inclusion, accountability, self-reflection, and continual growth.

We believe that it is important for survivors to feel seen and heard. We believe that Black Lives Matter because we cannot end violence without addressing the distinct injustices that Black and Indigenous People of Color face. We know that all forms of oppression are ultimately connected, and when we center individuals most impacted, we are also supporting survivors who have faced any form of violence. While we are not experts in anti-racism work, we aspire to be allies in this movement; we all have a responsibility to contribute to unlearning racism and intersecting forms of oppression that take place in our communities.

If you would like to talk with an advocate about your own experience with abuse, please call our 24-Hour Hotline at 262.542.3828. Learn more about The Women's Center at www.twcwaukesha.org, and find the resources mentioned on this episode by clicking Resources, then Podcasts on our website.

If you're in the Greater Milwaukee area, we also host an in-person Wednesday Workshop on the second and fourth Wednesdays of every month. That is by pre-registration only, so please call the Hotline and ask to speak with one of us for more information.

Thank you again for listening, and be well.