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## QUESTIONS PETITIONERS ASK ABOUT RESTRAINING ORDERS

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**1. If I file a restraining order petition, will my abuser know what I said in the petition?**

➤ Yes. Before a hearing can be held, at which time the temporary restraining order can be replaced with an injunction that can be in effect for up to four years, the abuser must be served with a copy of the TRO/injunction petition or a summary of the TRO/injunction petition if it is published. The respondent has the right to attend the hearing.

**2. When I get a restraining order, does that mean I have custody of the kids?**

➤ No. If you are seeking a domestic abuse restraining order, the court is prohibited from ordering any custody, physical placement or child support orders. A separate action may need to be filed in Family Court. You may need an attorney to assist with issues about custody/physical placement.

**3. When I get a TRO/injunction, does it mean my abuser has to stay away from the kids also?**

➤ The TRO/injunction only restricts the respondent from making contact with YOU and does not include the children, unless a separate child abuse TRO/injunction order has been filed on behalf of the child(ren). At the injunction hearing, custody or physical placement issues may come up. By law, when issuing a **domestic abuse** TRO or injunction, the court **may not** address these issues. It is possible for a court to address issues regarding the children at a **harassment** injunction hearing or a child abuse injunction hearing because the law does not say the court is prohibited from doing so at a harassment or child abuse injunction hearing.

➤ It is preferable to arrange any exchange of the child(ren) through a third party so there is no direct contact between the two of you. Many abusers use child exchange contacts as an opportunity to abuse the victim. Third party exchanges or exchanges in public places help to limit this.

**4. Can I get a restraining order for psychological/emotional abuse?**

➤ The laws are extremely specific about the types of abuse a person must have been subjected to in order to obtain an injunction. For a person living with someone who is psychologically or emotionally abusive, the mental abuse can be equally, if not more painful, than physical abuse. The domestic abuse restraining order law says the respondent must have engaged in certain physical abuse OR THE THREAT of any of this behavior. IF the emotional abuse includes threats, you may be able to get a domestic abuse restraining order. In addition, the domestic abuse restraining order law says if the person MAY ENGAGE in domestic abuse, you can obtain a restraining order.

IF the abuser engages in a course of action that harasses and intimidates and serves no legitimate purpose, you may be able to get a harassment restraining order.

**5. Will I be able to return to my home immediately after I file a TRO?**

➤ Sometimes. You will want to make sure the respondent has been served and you would not be in any danger in going home. If you make a request to the court, the court can order the sheriff to assist in placing you in physical possession of your residence and in serving the respondent with the restraining order. If the police cannot immediately get to the task of serving the respondent with the restraining order and placing you in possession of your home, you may need to stay someplace else until the police can help you.

**6. How can I make sure that the TRO/injunction will be enforced?**

➤ You are the best enforcer of this order. Every time the abuser makes contact with you, the police (911) should be called immediately. Not calling the police or only calling occasionally gives the abuser confusing messages about the validity of the TRO/injunction. The abuser will begin to believe it is acceptable to have contact sometimes. Also, sometimes officers do not know about or ignore the provisions of the domestic abuse law that say the order is not void if the petitioner allows contact or if the petitioner initiates the contact with the respondent.

**7. If we live or work in the same place, how can I be assured of no contact with my abuser?**

➤ At the injunction hearing when you are giving testimony, you will want to include any special requests, such as him/her staying away from you at your place of residence or work. If you happen to see each other at either of these places and your abuser does make contact with you, call the police immediately because it would be a violation of the TRO/injunction.

**8. How do I determine which county I should file in?**

➤ A petitioner can file a domestic abuse TRO or injunction in the county she or he is temporarily residing in OR in the county where she or he lives OR in the county where the respondent lives OR in the county where the incident occurred. A petitioner can file a harassment TRO or injunction in the county where the petitioner lives OR in the county where the respondent lives OR in the county in which the incident occurred.

**9. Will I void or violate my restraining order by having contact with the respondent?**

➤ The law says the **respondent** is prohibited from initiating direct contact with the petitioner. If the petitioner of a domestic abuse restraining order allows the respondent admittance into her or his home, the restraining order does not become null and void. The order is also still in effect even if the petitioner initiates contact with the respondent. The police are to enforce any violations of that order. However, if the petitioner initiates or allows contact, the police may believe that she or he is not serious about the injunction. The police can then arrest the petitioner and the prosecutor can charge the petitioner with aiding and abetting the violation of the restraining order as a party to the crime.

**10. Is it possible to get my restraining order extended?**

➤ If the injunction is for less than four years, the petitioner can get it extended for up to four years from the date it is first entered. The respondent must be notified once the extension is granted. Alternatively, a petitioner may request a 10-year extension if there is the threat of homicide or sexual abuse to the petitioner by the respondent.