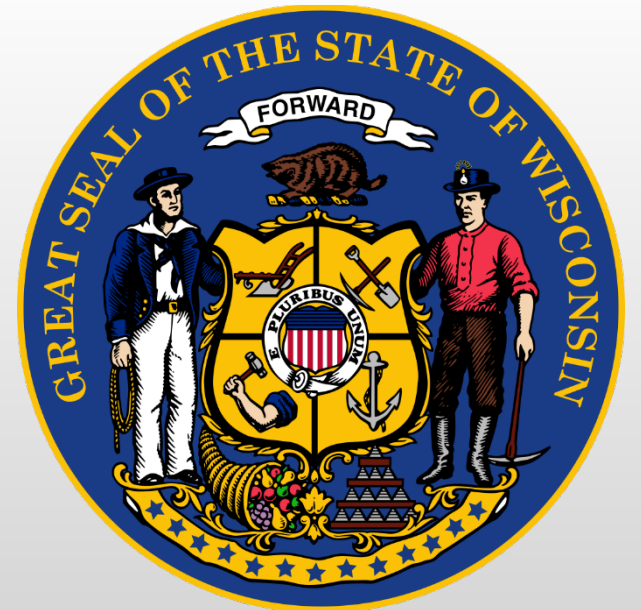
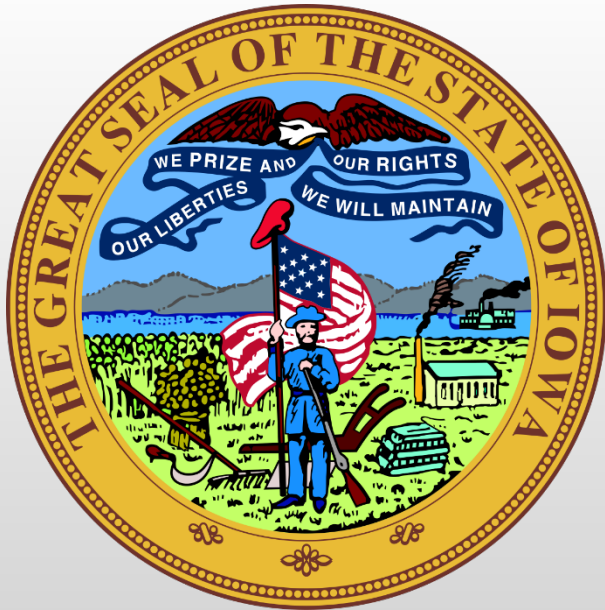


# Protective Orders/ NCOs

Iowa & Wisconsin



# WISCONSIN



# Child Abuse Restraining Orders/Injunctions

- **Who can file:** A victim of child abuse or the parent, stepparent, legal guardian, or guardian ad litem of a victim. A few additional individuals can petition in a proceeding brought under Wis. Stat. §48.13 (child in need of protection or services).
- **Against whom can the CARO be granted?** Any person, child or adult, who engages in child abuse. A claim of emotional damage can be brought against a parent, guardian, or legal custodian who has neglected, refused, or been unable to ameliorate those symptoms for reasons other than poverty.

# Domestic Abuse Restraining Orders/Injunctions

- **Who can file?** An adult family member, adult household member, adult former spouse, adult with whom the petitioner has a child in common, adult with whom the petitioner has or had a dating relationship, an adult under a caregiver's supervision, or a guardian of an individual adjudicated incompetent. The petitioner must be the victim except for the guardian of an incompetent individual.
- **Against whom can a DARO be granted?** An adult family member, adult household member, adult former spouse, adult with whom the petitioner has a child in common, adult with whom the petitioner has or had a dating relationship, or an adult caregiver.

# Individual at Risk Restraining Orders/Injunctions

- **Who can file?** An individual at risk (IAR), defined as an adult at risk or an elder at risk. An adult at risk is any adult who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.
- **Against whom can the IARRO be filed?** Any person who engages in abuse, financial exploitation, neglect, harassment, or stalking of an IAR.

# Harassment Restraining Orders/Injunctions

- **Who can file?** Any person harassed, including an adult; a child; the parent, stepparent, or legal guardian of a child who was harassed; or a child's guardian ad litem. A few additional individuals can petition in a proceeding brought under Wis. Stat. §48.13 (child in need of protection or services).
- **Against whom can a HRO be granted?** Any person, child or adult, who engages in harassment as described above.

# IOWA

- Criminal NCOs
- Civil Protective Orders
- Victim/Witness Orders
- Orders to Vacate (divorce)

## Iowa Code

Ch 664A

Ch 236

Ch 915

Ch 559



# Ch 664A: Criminal NCOs

- Issued “for any public offense” where there is a victim
- Issued pretrial and again at sentencing (if conviction)
- Includes simple misdemeanors
- Violation = *mandatory custodial arrest*
- 5 year terms commencing at sentencing (subject to renewal)
- MAY TRIGGER the firearms ban under Iowa & federal law
- NCO must restrain the person from harassing, stalking, or threatening *an intimate partner* of such person or child of such intimate partner or person, or engaging in other conduct that would place an *intimate partner* in reasonable fear of bodily injury to the partner or child?



# Ch 236 – DV Protective Orders

- May be filed *pro se*
- May be sought *ex parte*
- Court will issue a temporary order if *ex parte*
- It is a civil order
- May trigger Iowa and federal firearms ban for term of the order (only if a permanent order)
- 5 year term – subject to renewal
- Protects dating relationship – “intimate partners”
- Violation = mandatory custodial arrest

# Firearms provisions / Orders of protection

- Prohibition referenced right in the order (violation is contempt or jail)
- Prohibition in your state's law (violation is a criminal offense)
- Prohibition in federal law (violation is a criminal offense) 18 USC922(g)(8)

# FULL FAITH AND CREDIT - a federal law

**Order from one state is fully enforceable in another state.**

- The Order is valid on its face
- Subject to due-process (not a temporary, ex-parte order)

# 18 U.S. Code § 2265

## *Full faith and credit given to protection orders*

(a) Full Faith and Credit.— **Any protection order** issued that is consistent with subsection (b) of this section by the court of one State, Indian tribe, or territory (the issuing State, Indian tribe, or territory) **shall be accorded full faith and credit by the court of another State**, Indian tribe, or territory (the enforcing State, Indian tribe, or territory) and enforced by the court and law enforcement personnel of the other State, Indian tribal government or Territory as if it were the order of the enforcing State or tribe.

(b) Protection Order.—A protection order issued by a State, tribal, or territorial court is consistent with this subsection if— (1) such court has jurisdiction over the parties and matter under the law of such State, Indian tribe, or territory; and

- (2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

# Safety Planning Tips

- Decide who you will tell about your situation, including teachers, coworkers, supervisors or building security. Instruct them to call the police if the abuser violates the restraining order. Provide a copy of your restraining order and description or picture of the abuser. Ask if you can change your work hours, responsibilities, or location.
- Think ahead and devise a safety plan for public places. Do not walk alone. Ask someone to escort you to the bus, cab or your car. Use a variety of routes to go home.
- If you have children, grandchildren or other dependents living with you, prepare a safety plan with them. They should know important phone numbers and escape routes. Teach them not to let strangers or your abuser into the house. Inform teachers, school administration, childcare providers, friends and family members about who has permission to pick up children.
- Take photographs of your injuries, torn clothing, broken property and furniture in disarray when it is safe to do so. Leave copies of the photos, negatives, or a flash drive with the photos with a trusted family member, friend or at work.
- Bring a copy of your restraining order to the police stations where you live and work so they have a record of the restraining order and can respond promptly to your call for help.
- REFER TO LOCAL DV OR SA PROGRAM --- Advocacy is confidential and free.