



# Individual At Risk Injunctions Presentation for FAST Team September 25, 2008

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# Introduction

- Effective December 1, 2006
- Sec. 813.123, Wis. Stats.
- “Adult at Risk”
  - Physical or Mental Impairment
  - Impairs ability to care for needs
  - At risk of abuse or neglect or financial exploitation
- “Elder Adult at Risk”
  - Adult at risk 60 or older



# Overview of Procedure

- File Petition for Temporary Restraining Order and Injunction
  - File in Circuit Court (county where acts occurred or where Respondent resides)
  - Allege
    - Respondent has or probably will interfere with investigation or delivery of services
    - Respondent engaged in abuse, financial exploitation, neglect or harassment.
    - Reasonable cause to believe these are true
    - Individual at risk need not consent to petition



## Procedure--TRO

- TRO can be granted without Notice
- Good for 7 days
- Can be extended for another 7 days if you can't get service
- Followed by Injunction hearing



# Procedure--Injunction

- Hearing/Trial on issue of permanent Injunction
- Court must find there is “reasonable cause” to believe
  - Respondent
    - Interfered with investigation or services
    - Engaged in or threatened to engage in abuse, financial exploitation, neglect, harassment or stalking of individual at risk



# Procedure--Injunction

- Contents of Injunction
  - Avoid interfering with investigation or delivery of protective services
  - Cease engaging in abuse, financial exploitation etc.
  - Avoid contact with individual at risk and his/her residence
  - Anything else needed to protect individual
- Duration of Injunction: 4 years unless lesser period in injunction



# Injunction—Enforcement

- This injunction can be enforced by local law enforcement if necessary
- Enter information in “Transaction Information for Management of Enforcement System”
- Violators Can be Arrested by law enforcement
- \$1,000 fine or 9 months imprisonment



## Case study

- Facts: Child is trying to get at dad's money. Has Child's name on dad's checking account. Child tries to revoke his power of attorney for finance (naming another family member). Child has a history of "persuading" father to give Child money. We wanted to get a guardian appointed but were afraid Child would take money from account.



## Case Study: What we Did

- Filed Petition and obtained *ex parte* TRO
- Included language in TRO to direct bank not to honor Child's request for funds.
- Served TRO on Bank
- Filed for guardianship and noticed Temporary hearing
- Got Temporary guardianship
- Got Final Injunction (in this case it ended up being stipulated).



# Advantage of Abuse Injunction

- Allowed us to protect assets before Child could act
- Allowed us to move more quickly than a guardianship would allow
- Preserved assets for Guardianship
- Note: In this case, we ultimately settled for a third party guardian of the estate to resolve the dispute.