

**5.37 ASSIGNMENT OF PETITIONS FOR TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS UNDER WIS. STAT. CHAPTER 813; ASSIGNMENT OF CHILD ABUSE AND JUVENILE HARASSMENT INJUNCTIONS AS BETWEEN THE FAMILY DIVISION AND THE CHILDREN'S DIVISION**

A. All petitions for temporary restraining orders under Wis. Stat. §§ 813.12, 813.122, and 813.125 initially shall be heard by the Family Court Commissioner. The assignment of subsequent proceedings among branches of the Family Division is governed by Rules 5.4 (designation and assignment of cases), 5.31 (review of decisions of family court commissioners in Chapter 813 harassment and domestic abuse actions) and this rule.

B. All hearings on the issuance of an injunction sought on behalf of a child, by a child, or against a child, including child abuse and harassment injunctions ("JI injunction"), shall be conducted by a judge or judicial court commissioner in the Children's Division, except as provided in Rule 5.37.C.

C. All hearings on petitions seeking a JI injunction shall be conducted by a judge or family court commissioner in the Family Division (and shall be assigned according the rules for assigning Family Division cases in Rule 5.4) if:

- a. both parties to the petition are adults who are parties to a pending FA or PA case; or
- b. both of the parents of the child are parties to the same pending FA or PA case and the respondent named in the petition is married to one of the parents or is in a dating relationship, as defined in Wis. Stat. § 813.12(1), with one of the parents;
- c. except that if the child named in the petition is the subject of a CHIPS action in which future proceedings are scheduled in the Children's Division, the hearing shall be conducted by a judge or judicial court commissioner in the Children's Division;
- d. for purposes of Rule 5.37.C. a case is "pending" during any period of time during which:
  1. any proceeding is scheduled to be heard;
  2. a bench warrant issued by the court is outstanding; or
  3. any proceeding was heard by the court within the previous twelve months.

## **5.4 DESIGNATION AND ASSIGNMENT OF CASES**

A. All cases assigned to the Family Division shall be designated "FA" except for

1. Cases in which the court is asked to determine paternity, which shall be designated "PA;"
2. Cases in which a party seeks a harassment injunction, which shall be designated "CV;" and
3. Cases in which an injunction is sought on behalf of a child, by a child or against a child and which cases are assigned to the Family Division under Rule 5.37.C., which shall be designated "JI."

B. All FA cases shall be assigned electronically by lot among the branches of the division, except

1. as provided in Rule 5.4.D., 5.4.E. and 5.4.G.; and
2. de novo motions in certain FA cases shall be assigned for a hearing in a branch of the Criminal Division if all of the following criteria apply:
  - a. a domestic abuse injunction is issued under Wis. Stat. § 813.12; and
  - b. the respondent in the FA case is a defendant in a case pending in the Criminal Division, and
  - c. the claim against the defendant in the Criminal Division case arises from the same facts and circumstances that give rise to claim in the FA case.

C. All Harassment injunction CV cases are assigned according to Rule 1.6 (daytime duty judge).

D. Assignment of PA cases shall rotate from branch to branch within the division each month. All PA cases filed in a given month shall be assigned to a single branch.

E. When more than one case involves one or more of the same parties, the cases may be reassigned as follows:

1. For purposes of Rule 5.4 a case is "pending" during any period of time during which any proceeding is scheduled to be heard before the court or during which a bench warrant issued by the court is outstanding.

2. Purposes of this rule:

- a. to consolidate multiple cases involving the child support obligations of a single family unit (consisting of the father and mother of the same child or children) for the administrative convenience of the Department of Child Support Enforcement; and

b. to assign multiple cases involving one or more of the same parties to the branch in which, by virtue of previous proceedings, the judge may have become familiar with the parties and the issues their cases present; and

c. to assign multiple cases involving one or more of the same parties to one branch for hearing on a common issue.

3. Except as provided in Rule 5.4.B., such cases shall be assigned to the same branch to which any pending FA or PA case involving the same parties is assigned.

4. PA cases involving children presumed to be of a marriage shall be reassigned to the same branch to which is assigned any pending divorce case involving that marriage.

5. All FA and PA cases which have in common the same family unit and in which a custody, placement or child support issue has been raised shall be reassigned to the branch to which the most recently filed case is assigned, unless a case involving the same parties is already pending before or has been heard by another judge currently in the division, in which situation, all cases shall be reassigned to the judge with the pending case or who previously heard the case most recently.

6. All FA and PA cases which have in common the same payor and in which a child support issue has been raised shall be reassigned to the branch to which the most recently filed case is assigned, unless a case involving the same payor is already pending before or has been heard by another judge currently in the division, in which situation, all cases shall be reassigned to the judge with the pending case or who previously heard the case most recently.

7. This rule does not affect the policy of consolidating financial orders into the most recently filed case on motion of the Department of Child Support Enforcement.

F. Cases in which a petition for a temporary restraining order and/or an injunction under Wis. Stat. Chapter 813 is filed on behalf of a child, by a child or against a child are assigned as provided in Rule 5.37.

G. The Chief Judge or the Presiding Judge of the division may order the transfer of cases from branch to branch to facilitate the fair and efficient operation of the division.