

2013 Assembly Bill 464 (LRB -1962)

An Act to repeal 813.122 (5m) (am), 813.122 (5m) (aw), 813.122 (5m) (b) and (c), 813.125 (4m) (cm), 813.125 (4m) (cw) and 813.125 (4m) (d) and (e); to renumber 813.122 (2); to renumber and amend 813.12 (4m) (am), 813.12 (4m) (aw), 813.12 (4m) (b) and 813.12 (4m) (c); to amend 48.25 (6), 813.12 (4m) (a) 1., 813.12 (4m) (a) 2., 813.122 (5m) (a) 1., 813.122 (5m) (a) 2., 813.125 (4) (a) 2., 813.125 (4m) (c) 1., 813.125 (4m) (c) 2., 813.125 (6) (c) and 938.25 (6); and to create 785.01 (1) (bp) and (br), 813.12 (2) (c), 813.122 (2) (b), 813.125 (4) (a) 2. a., b. and c. and 813.1285 of the statutes; relating to: providing notice of firearm prohibition when serving notice for certain injunction hearings and process for surrendering firearms following the granting of certain injunctions. (FE)

2013

10-25.	A.	Introduced by Representatives Bies, Berceau, Bernard Schaber, Bernier, Bewley, Billings, Brooks, Hebl, Hintz, Jacque, Johnson, Murphy, A. Ott and Richards ; cosponsored by Senators L. Taylor, Carpenter, Hansen, Harris, Lehman, Risser and Shilling.	388
10-25.	A.	Read first time and referred to Committee on Public Safety and Homeland Security	388
11-04.	A.	Fiscal estimate received	
11-12.	A.	Fiscal estimate received	
11-19.	A.	LRB correction	470
11-19.	A.	Public hearing held	
12-06.	A.	Assembly Amendment 1 offered by Representative Bies (LRB a1279)	489
12-18.	A.	Executive action taken	

2014

01-30.	A.	Report Assembly Amendment 1 adoption recommended by Committee on Public Safety and Homeland Security, Ayes 6, Noes 0	566
01-30.	A.	Report passage as amended recommended by Committee on Public Safety and Homeland Security, Ayes 6, Noes 0	566
01-30.	A.	Referred to Committee on Rules	566
02-11.	A.	Assembly Substitute Amendment 1 offered by Representative Bies (LRB s0259)	598
02-13.	A.	Placed on calendar 2-18-2014 by Committee on Rules	
02-17.	A.	Assembly Amendment 1 to Assembly Substitute Amendment 1 offered by Representative Bies (LRB a1813)	644
02-18.	A.	Representative Shankland added as a coauthor	655
02-18.	A.	Rules suspended to withdraw from calendar and take up	655
02-18.	A.	Read a second time	655
02-18.	A.	Assembly Amendment 1 to Assembly Substitute Amendment 1 adopted	655
02-18.	A.	Assembly Substitute Amendment 1 adopted	655
02-18.	A.	Ordered to a third reading	655
02-18.	A.	Rules suspended	655
02-18.	A.	Read a third time and passed	655
02-18.	A.	Ordered immediately messaged	655
02-19.	S.	Received from Assembly	694
02-19.	S.	Read first time and referred to committee on Transportation, Public Safety, and Veterans and Military Affairs	695
02-25.	S.	Senator Ellis added as a cosponsor	714
02-27.	S.	Executive action taken	
02-28.	S.	Report concurrence recommended by Committee on Transportation, Public Safety, and Veterans and Military Affairs, Ayes 5, Noes 0	722
02-28.	S.	Available for scheduling	
03-14.	S.	Placed on calendar 3-18-2014 pursuant to Senate Rule 18(1)	779
03-18.	S.	Read a second time	
03-18.	S.	Ordered to a third reading	
03-18.	S.	Rules suspended	
03-18.	S.	Read a third time and concurred in	
03-18.	S.	Ordered immediately messaged	
03-18.	A.	Received from Senate concurred in	

2013
ENROLLED BILL

13en A B-464

ADOPTED DOCUMENTS:

Orig Engr

A SubAmdt 1

13 50259, 1

Amendments to above (if none, write "NONE"):

AA1 — a 1813/1

Corrections - show date (if none, write "NONE"):

None

Topic

Rel

3-20-14

Date

J. R. Miller

Enrolling Drafter



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 464**

February 11, 2014 – Offered by Representative BIES.

1 **AN ACT to repeal** 813.122 (5m) (am), 813.122 (5m) (aw), 813.122 (5m) (b) and (c),
2 813.125 (4m) (cm), 813.125 (4m) (cw) and 813.125 (4m) (d) and (e); **to renumber**
3 813.122 (2); **to renumber and amend** 813.12 (4m) (am), 813.12 (4m) (aw),
4 813.12 (4m) (b), 813.12 (4m) (c) and 813.125 (4) (a) 2.; **to amend** 48.25 (6),
5 813.12 (3) (c), 813.12 (4m) (a) 1., 813.12 (4m) (a) 2., 813.122 (4) (c), 813.122 (5m)
6 (a) 1., 813.122 (5m) (a) 2., 813.125 (3) (c), 813.125 (4m) (c) 1., 813.125 (4m) (c)
7 2., 813.125 (6) (c) and 938.25 (6); and **to create** 785.01 (1) (br), 813.12 (2) (c),
8 813.122 (2) (b), 813.125 (4) (a) 2. a., b. and c., 813.1285 and 818.02 (9) of the
9 statutes; **relating to:** providing notice of firearm prohibition when serving
10 notice for certain injunction hearings and process for surrendering firearms
11 following the granting of certain injunctions and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.25 (6) of the statutes is amended to read:

2 48.25 (6) If a proceeding is brought under s. 48.13, any party to or any
3 governmental or social agency involved in the proceeding may petition the court to
4 issue a temporary restraining order and injunction as provided in s. 813.122 or
5 813.125. The court exercising jurisdiction under this chapter shall follow the
6 procedure under s. 813.122 or 813.125 except that the court may combine hearings
7 authorized under s. 813.122 or 813.125 and this chapter, the petitioner for the
8 temporary restraining order and injunction is not subject to the limitations under s.
9 813.122 (2) (a) or 813.125 (2) and no fee is required regarding the filing of the petition
10 under s. 813.122 or 813.125.

INS. AA1-1

11 **SECTION 2.** 785.01 (1) (br) of the statutes is created to read:

12 785.01 (1) (br) Violation of an order under s. 813.1285 (4) (b) 2.;

13 **SECTION 3.** 813.12 (2) (c) of the statutes is created to read:

14 813.12 (2) (c) When the respondent is served with the petition under this
15 subsection, the person who serves the respondent shall also provide the respondent
16 all of the following information:

17 1. Notice of the requirements and penalties under s. 941.29 (1) (f) and (2) (e)
18 and notice of any similar applicable federal laws and penalties.

19 2. An explanation of s. 813.1285, including the procedures for surrendering a
20 firearm and the circumstances listed under s. 813.1285 under which a respondent
21 must appear at a hearing to surrender firearms.

22 3. A firearm possession form developed under s. 813.1285 (5) (a), with
23 instructions for completing and returning the form.

24 **SECTION 4.** 813.12 (3) (c) of the statutes is amended to read:

1 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
2 on issuance of an injunction under sub. (4), except that the court may extend the
3 temporary restraining order under s. 813.1285. The temporary restraining order is
4 not voided if the respondent is admitted into a dwelling that the order directs him
5 or her to avoid. A judge or circuit court commissioner shall hold a hearing on issuance
6 of an injunction within 14 days after the temporary restraining order is issued,
7 unless the time is extended upon the written consent of the parties or extended once
8 for 14 days upon a finding that the respondent has not been served with a copy of the
9 temporary restraining order although the petitioner has exercised due diligence.

10 **SECTION 5.** 813.12 (4m) (a) 1. of the statutes is amended to read:

11 813.12 (4m) (a) 1. Inform the respondent named in the petition of the
12 requirements and penalties under s. 941.29 and any similar applicable federal laws
13 and penalties.

14 **SECTION 6.** 813.12 (4m) (a) 2. of the statutes is amended to read:

15 813.12 (4m) (a) 2. Except as provided in par. (ag), require in writing the
16 respondent to surrender any firearms that he or she owns or has in his or her
17 possession to the sheriff of the county in which the action under this section was
18 commenced, to the sheriff of the county in which the respondent resides or to another
19 person designated by the respondent and approved by the judge or circuit court
20 commissioner. ~~The judge or circuit court commissioner shall approve the person~~
21 ~~designated by the respondent unless the judge or circuit court commissioner finds~~
22 ~~that the person is inappropriate and places the reasons for the finding on the record.~~
23 ~~If a firearm is surrendered to a person designated by the respondent and approved~~
24 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~

1 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~
2 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

3 **SECTION 7.** 813.12 (4m) (am) of the statutes is renumbered 813.1285 (6) and
4 amended to read:

5 813.1285 (6) (a) When a respondent surrenders a firearm under ~~par. (a) 2. sub.~~
6 ~~(3) (a) 2. or (4) (b) 2.~~ to a sheriff, the sheriff who is receiving the firearm shall prepare
7 a receipt for each firearm surrendered to him or her. The receipt shall include the
8 date on which the firearm was surrendered and the manufacturer, model, and serial
9 number of the firearm surrendered to the sheriff and shall be signed by the
10 respondent and by the sheriff to whom the firearm is surrendered.

11 (b) The sheriff shall keep the original of a receipt prepared under ~~subd. 1. par.~~
12 ~~(a)~~ and shall provide ~~an exact copy~~ 2 copies of the receipt to the respondent. The
13 respondent shall provide one copy of the receipt to the clerk of courts within 48 hours
14 of the order to surrender firearms. When the firearm covered by the receipt is
15 returned to the respondent under ~~par. (b) sub. (7),~~ the sheriff shall surrender to the
16 respondent the original receipt and all of his or her copies of the receipt.

17 (c) A receipt prepared under ~~subd. 1. par. (a)~~ is conclusive proof that the
18 respondent owns the firearm for purposes of returning the firearm covered by the
19 receipt to the respondent under ~~par. (b) sub. (7).~~

20 (d) The sheriff may not enter any information contained on a receipt prepared
21 under ~~subd. 1. par. (a)~~ into any computerized or direct electronic data transfer system
22 in order to store the information or, except as provided in par. (b), disseminate or
23 provide access to the information.

24 **SECTION 8.** 813.12 (4m) (aw) of the statutes is renumbered 813.1285 (6) (e) 1.
25 and amended to read:

1 813.1285 (6) (e) 1. A sheriff may store a firearm surrendered to him or her
2 under ~~par. (a) 2. sub. (3) (a) 2. or (4) (b) 2.~~ in a warehouse that is operated by a public
3 warehouse keeper licensed under ch. 99. If a sheriff stores a firearm at a warehouse
4 under this ~~paragraph subdivision~~, the respondent shall pay the costs charged by the
5 warehouse for storing that firearm.

6 **SECTION 9.** 813.12 (4m) (b) of the statutes is renumbered 813.1285 (7) (a), and
7 813.1285 (7) (a) (intro.) and 1., as renumbered, are amended to read:

8 813.1285 (7) (a) (intro.) A firearm surrendered under ~~par. (a) 2.~~ this section may
9 not be returned to the respondent until the respondent completes a petition for the
10 return of firearms and a judge or circuit court commissioner determines all of the
11 following:

12 1. That the injunction ~~issued under sub. (4)~~ has been vacated or has expired and
13 not been extended.

14 **SECTION 10.** 813.12 (4m) (c) of the statutes is renumbered 813.1285 (7) (b) and
15 amended to read:

16 813.1285 (7) (b) If a respondent surrenders a firearm under ~~par. (a) 2.~~ this
17 section that is owned by a person other than the respondent, the person who owns
18 the firearm may apply for its return to the circuit court for the county in which the
19 person to whom the firearm was surrendered is located. The court shall order such
20 notice as it considers adequate to be given to all persons who have or may have an
21 interest in the firearm and shall hold a hearing to hear all claims to its true
22 ownership. If the right to possession is proved to the court's satisfaction, it shall
23 order the firearm returned. If the court returns a firearm under this paragraph, the
24 court shall inform the person to whom the firearm is returned of the requirements
25 and penalties under s. 941.29 (4).

1 **SECTION 11.** 813.122 (2) of the statutes is renumbered 813.122 (2) (a).

2 **SECTION 12.** 813.122 (2) (b) of the statutes is created to read:

3 813.122 (2) (b) When the respondent is served with the petition under this
4 subsection, the person who serves the respondent shall also provide the respondent
5 with all of the following information:

6 1. Notice of the requirements and penalties under s. 941.29 (1) (f) and (2) (e)
7 and notice of any similar applicable federal laws and penalties.

8 2. An explanation of s. 813.1285, including the procedures for surrendering a
9 firearm and the circumstances listed under s. 813.1285 under which a respondent
10 must appear at a hearing to surrender firearms.

11 3. A firearm possession form developed under s. 813.1285 (5) (a), with
12 instructions for completing and returning the form.

13 **SECTION 13.** 813.122 (4) (c) of the statutes is amended to read:

14 813.122 (4) (c) The temporary restraining order is in effect until a hearing is
15 held on issuance of an injunction under sub. (5), except that the court may extend the
16 temporary restraining order under s. 813.1285. A judge shall hold a hearing on
17 issuance of an injunction within 14 days after the temporary restraining order is
18 issued, unless the time is extended upon the written consent of the parties or
19 extended once for 14 days upon a finding that the respondent has not been served
20 with a copy of the temporary restraining order although the petitioner has exercised
21 due diligence.

22 **SECTION 14.** 813.122 (5m) (a) 1. of the statutes is amended to read:

23 813.122 (5m) (a) 1. Inform the respondent named in the petition of the
24 requirements and penalties under s. 941.29 and any similar applicable federal laws
25 and penalties.

1 **SECTION 15.** 813.122 (5m) (a) 2. of the statutes is amended to read:

2 813.122 **(5m)** (a) 2. Except as provided in par. (ag), require in writing the
3 respondent to surrender any firearms that he or she owns or has in his or her
4 possession to the sheriff of the county in which the action under this section was
5 commenced, to the sheriff of the county in which the respondent resides or to another
6 person designated by the respondent and approved by the judge or circuit court
7 commissioner. ~~The judge or circuit court commissioner shall approve the person~~
8 ~~designated by the respondent unless the judge or circuit court commissioner finds~~
9 ~~that the person is inappropriate and places the reasons for the finding on the record.~~
10 ~~If a firearm is surrendered to a person designated by the respondent and approved~~
11 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~
12 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~
13 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

14 **SECTION 16.** 813.122 (5m) (am) of the statutes is repealed.

15 **SECTION 17.** 813.122 (5m) (aw) of the statutes is repealed.

16 **SECTION 18.** 813.122 (5m) (b) and (c) of the statutes are repealed.

17 **SECTION 19.** 813.125 (3) (c) of the statutes is amended to read:

18 813.125 **(3)** (c) The temporary restraining order is in effect until a hearing is
19 held on issuance of an injunction under sub. (4), except that the court may extend the
20 temporary restraining order under s. 813.1285. A judge or circuit court
21 commissioner shall hold a hearing on issuance of an injunction within 14 days after
22 the temporary restraining order is issued, unless the time is extended upon the
23 written consent of the parties or extended once for 14 days upon a finding that the
24 respondent has not been served with a copy of the temporary restraining order
25 although the petitioner has exercised due diligence.

INS AA1-2

1 **SECTION 20.** 813.125 (4) (a) 2. of the statutes is renumbered 813.125 (4) (a) 2.
2 (intro.) and amended to read:

3 813.125 (4) (a) 2. (intro.) The petitioner serves upon the respondent a copy of
4 a restraining order obtained under sub. (3) and notice of the time for the hearing on
5 the issuance of the injunction under sub. (3) (c). The restraining order or notice of
6 hearing served under this subdivision shall inform the respondent that, if the judge
7 or circuit court commissioner issues an injunction, the judge or circuit court
8 commissioner may also order the respondent not to possess a firearm while the
9 injunction is in effect. The person who serves the respondent with the order or notice
10 shall also provide the respondent with all of the following information:

11 **SECTION 21.** 813.125 (4) (a) 2. a., b. and c. of the statutes are created to read:

12 813.125 (4) (a) 2. a. Notice of the requirements and penalties under s. 941.29
13 (1) (g) and (2) (d) and notice of any similar applicable federal laws and penalties.

14 b. An explanation of s. 813.1285, including the procedures for surrendering a
15 firearm and the circumstances listed under s. 813.1285 under which a respondent
16 must appear at a hearing to surrender firearms.

17 c. A firearm possession form developed under s. 813.1285 (5) (a), with
18 instructions for completing and returning the form.

19 **SECTION 22.** 813.125 (4m) (c) 1. of the statutes is amended to read:

20 813.125 (4m) (c) 1. Inform the respondent named in the petition of the
21 requirements and penalties under s. 941.29 and any similar applicable federal laws
22 and penalties.

23 **SECTION 23.** 813.125 (4m) (c) 2. of the statutes is amended to read:

24 813.125 (4m) (c) 2. Except as provided in par. (cg), require in writing the
25 respondent to surrender any firearms that he or she owns or has in his or her

1 possession to the sheriff of the county in which the action under this section was
2 commenced, to the sheriff of the county in which the respondent resides or to another
3 person designated by the respondent and approved by the judge or circuit court
4 commissioner. ~~The judge or circuit court commissioner shall approve the person~~
5 ~~designated by the respondent unless the judge or circuit court commissioner finds~~
6 ~~that the person is inappropriate and places the reasons for the finding on the record.~~
7 ~~If a firearm is surrendered to a person designated by the respondent and approved~~
8 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~
9 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~
10 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

11 **SECTION 24.** 813.125 (4m) (cm) of the statutes is repealed.

12 **SECTION 25.** 813.125 (4m) (cw) of the statutes is repealed.

13 **SECTION 26.** 813.125 (4m) (d) and (e) of the statutes are repealed.

14 **SECTION 27.** 813.125 (6) (c) of the statutes is amended to read:

15 813.125 (6) (c) A respondent who does not appear at a hearing at which the
16 court orders an injunction under sub. (4) but who has been served with a copy of the
17 petition and notice of the time for hearing under sub. (4) (a) 2. that includes the
18 information required under sub. (4) (a) 2. a., b., and c. has constructive knowledge
19 of the existence of the injunction and shall be arrested for violation of the injunction
20 regardless of whether he or she has been served with a copy of the injunction.

21 **SECTION 28.** 813.1285 of the statutes is created to read:

22 **813.1285 Notice and process for firearm surrender.** (1) DEFINITIONS. In
23 this section:

24 (a) “Firearm possession form” means the form developed under sub. (5) (a).

1 (am) "Injunction" means an injunction issued under s. 813.12 (4) or 813.122 (5),
2 or, if the court has required the individual to surrender his or her firearms under s.
3 813.125 (4m), under s. 813.125 (4). "Injunction" includes an injunction that has been
4 stayed under this section.

INS. AA1-3

5 (b) "Petitioner" means an individual who is applying for, or for whom a court
6 has granted, an injunction.

7 (c) "Petition for the return of firearms" means a petition developed under sub.
8 (5) (b).

9 (d) "Respondent" means the individual who is the subject of an injunction.

10 (e) "Surrender and extend order" means an order under sub. (1g).

11 (1g) SURRENDER AND EXTEND ORDER. If the court issues a surrender and extend
12 order, the court shall do all of the following:

13 (a) Order the respondent to surrender, within a period that is no longer than
14 48 hours, any firearm that he or she owns or possesses to the sheriff or, in the court's
15 discretion, to another person.

16 (b) Order that the respondent may possess or transport a firearm only for the
17 purpose of complying with par. (a).

18 (c) If the court stays an injunction, order the respondent subject to a temporary
19 restraining order during the stay of the injunction and extend the temporary
20 restraining order for a period of 48 hours for the purpose of firearm surrender.

21 (d) Inform the respondent when the injunction will take effect and the penalty
22 for possessing a firearm while the injunction is in effect.

23 (e) Instruct the respondent how to surrender any firearm.

24 (f) If appropriate, order the respondent to attend a hearing to surrender
25 firearms.

1 **(1m) TEMPORARY RESTRAINING ORDERS.** If the court is required to extend a
2 temporary restraining order under this section, and a temporary restraining order
3 was not previously granted, the court shall, on its own motion, reconsider and grant
4 the temporary restraining order.

5 **(2) FIREARM POSSESSION DETERMINATION.** (a) If the respondent is present at the
6 injunction hearing, the court shall stay the injunction for a period not to exceed 48
7 hours and shall extend the temporary restraining order for 48 hours for the purpose
8 of firearm surrender. The respondent shall provide the court a completed firearm
9 possession form. The court shall verify the information on the firearm possession
10 form and shall make an inquiry on the record as to the contents of the firearm
11 possession form.

12 (b) If the respondent is not present at the injunction hearing, the court shall
13 provide the petitioner with an opportunity to inform the court orally or in writing
14 whether he or she believes that the respondent possesses a firearm. If the petitioner
15 informs the court that the respondent possesses a firearm, the court shall request the
16 petitioner to inform the court orally or in writing how many firearms he or she
17 believes the respondent possesses, the make and model of any firearm he or she
18 believes the respondent possesses, and the location of any firearm he or she believes
19 the respondent possesses.

20 (c) 1. If the firearm possession form submitted to the court under par. (a) or (b)
21 indicates the respondent does not possess a firearm, and the court, after an inquiry,
22 is satisfied that the respondent does not possess a firearm, the court shall file the
23 firearm possession form, lift the stay of the injunction, and dismiss the temporary
24 restraining order extended under par. (a).

1 2. If, under par. (a), the firearm possession form submitted to the court
2 indicates the respondent possesses a firearm, and the respondent has not
3 surrendered his or her firearm as described under sub. (3) (a), the court shall
4 continue to stay the injunction as provided under par. (a) for a period not to exceed
5 48 hours, issue a surrender and extend order, and schedule a hearing to surrender
6 firearms to occur within one week of the injunction hearing.

7 3. If, under par. (b), the petitioner indicates that the respondent possesses a
8 firearm or if the court is not satisfied under subd. 1. that the respondent does not
9 possess a firearm, the court shall schedule a hearing to surrender firearms to occur
10 within one week of the injunction hearing. The court shall do one of the following:

11 a. Continue the stay under par. (a) of the injunction and issue a surrender and
12 extend order.

13 b. Lift the stay of the injunction.

14 4. The court may schedule a hearing to surrender firearms for any reason
15 relevant to the surrender of firearms.

16 **(3) SURRENDER OF FIREARMS.** (a) Unless the court has noted another reason that
17 is relevant to the surrender of firearms that would require the hearing to surrender
18 firearms to occur, the court shall dismiss the hearing to surrender firearms
19 scheduled under sub. (2) (c) 2. or 3. if the respondent surrenders his or her firearm
20 in one of the following manners:

21 1. The respondent surrenders his or her firearm to another person and all of
22 the following apply:

23 a. The respondent and the person to whom the respondent is surrendering his
24 or her firearm appear at the injunction hearing.

1 b. At the injunction hearing, the person testifies under oath that the person has
2 received the firearms listed on the respondent's firearm possession form.

3 c. At the injunction hearing, the court determines that the person is not
4 prohibited from possessing a firearm.

5 d. The court informs the person to whom the firearm is surrendered of the
6 requirements and penalties under s. 941.29 (4).

7 e. The court, after considering all relevant factors and any input from the
8 petitioner, approves the surrender of the firearm.

9 f. The court does not use the process under subd. 3.

10 2. The respondent surrenders his or her firearm to a sheriff no later than 48
11 hours after the injunction hearing ordering the respondent to surrender his or her
12 firearm and provides a copy of the receipt to the clerk of courts as provided in sub.
13 (6) (b).

14 3. The respondent surrenders his or her firearm to a sheriff as provided under
15 subd. 2., and a person who appeared at the injunction hearing takes possession of the
16 firearm from the sheriff, if all of the following apply:

17 a. Subdivision 1. d. and e. apply.

18 b. The sheriff determines that the person is not prohibited from possessing a
19 firearm.

20 (b) If the court approves the surrender under par. (a) 1., and if the court has
21 issued a surrender and extend order and has stayed the injunction, the court shall
22 lift the stay and dismiss the temporary restraining order.

23 **(4) HEARING TO SURRENDER FIREARMS.** (a) Unless the court dismisses the hearing
24 to surrender firearms, a respondent for whom a hearing to surrender firearms has
25 been scheduled must attend the hearing. If the respondent fails to attend the

1 hearing to surrender firearms, the court shall issue an arrest warrant for the
2 respondent.

3 (b) At the hearing to surrender firearms, the court shall stay the injunction for
4 a period not to exceed 48 hours, shall extend the temporary restraining order for 48
5 hours, shall ensure that the respondent has completed a firearm possession form and
6 verify the information provided on the firearm possession form if the information
7 was not already verified under sub. (2) (a), shall make an inquiry on the record as
8 to the contents of the firearm possession form, and shall do one of the following:

9 1. If the respondent wants to surrender his or her firearms to a person who is
10 not the sheriff and who appears at the hearing to surrender firearms, and if the court,
11 after considering all relevant factors and input from the petitioner, approves the
12 surrender and informs the person to whom the firearms are surrendered of the
13 requirements and penalties under s. 941.29 (4), order the respondent to surrender
14 his or her firearms in one of the following ways:

15 a. To the person, after the person testifies under oath that he or she has received
16 the firearms listed on the respondent's firearm possession form and after the court
17 determines that the person is not prohibited from possessing a firearm.

18 b. To the sheriff, who shall transfer the firearms to the person after determining
19 that the person is not prohibited from possessing a firearm.

20 1m. If the respondent claims to have surrendered his or her firearms to the
21 sheriff in accordance with sub. (6), verify that the respondent has surrendered all
22 such firearms, lift the stay of the injunction, and dismiss the temporary restraining
23 order.

24 2. Order the respondent to surrender any firearm that the court finds the
25 respondent owns or possesses to a sheriff in accordance with sub. (6). If the

1 respondent has not provided to the court, within 48 hours of the hearing to surrender
2 firearms, a receipt as specified in sub. (6) (b) that shows surrender of all of the
3 firearms that were subject to the order, the court shall presume the respondent is
4 violating the order and the injunction and may do any of the following:

5 a. Notify the sheriff of the violation for investigation and appropriate action.

6 b. Schedule another hearing to surrender firearms.

7 c. Issue a warrant to the sheriff ordering that the respondent be brought before
8 the court to show cause why the respondent should not be held in contempt.

9 3. a. If, under subd. 1. b. or 2., the court orders the respondent to surrender his
10 or her firearms to the sheriff, the court shall issue a surrender and extend order.

11 b. If, under subd. 1. a., the court orders the respondent to surrender his or her
12 firearms to a person who is not the sheriff, the court shall lift any stay of the
13 injunction and dismiss the temporary restraining order.

14 4. If the firearm possession form indicates that the respondent does not possess
15 a firearm, and the court, after an inquiry, is satisfied that the respondent does not
16 possess a firearm, the court shall file the firearm possession form, lift any stay of the
17 injunction, and dismiss the temporary restraining order.

18 **(5) FIREARM POSSESSION FORM AND PETITION FOR THE RETURN OF FIREARMS.** (a) The
19 director of state courts shall develop a firearm possession form. Any false
20 information provided on the form by the respondent may be subject to a penalty of
21 false swearing under s. 946.32. The director of state courts shall ensure that the
22 firearm possession form does all of the following:

23 1. Requires the respondent to list his or her name and address.

24 2. Includes space for the respondent's signature and date signed.

1 3. Requires the respondent to indicate whether he or she owns or possesses any
2 firearm or has owned or possessed any firearm in the 6 months immediately
3 preceding the issuance of the injunction, and, if the answer is yes, to list the quantity
4 and the make and model of each firearm and to note whether the firearm was sold
5 or surrendered and whether he or she has a receipt for the firearm sale or surrender.

6 4. Gives notice of the penalty for false swearing under s. 946.32.

7 (b) The director of state courts shall develop a petition for the return of firearms
8 in substantially the following form:

9 STATE OF WISCONSIN
10 IN CIRCUIT COURT FOR COUNTY
11 Petition to Return Firearm(s)

12 In re the Return of Firearms to (name of person required to surrender firearms
13 in an injunction action)

14 Requesting person's information: date of birth, sex, race, height, weight, hair
15 color, eye color, address, and phone number.

16 Under oath I state that:

17 1. The court issued an injunction against me on (date of injunction). The
18 injunction was issued based on a:

19 Domestic Abuse petition.

20 Child Abuse petition.

21 Harassment petition.

INS. AAI-4

22 2. The court ordered me to surrender any firearms I owned or had in my
23 possession to:

24 the sheriff of this county.

25 the sheriff of the county in which I resided, which is (name of county).

1 to the following person (whether directly or indirectly through a sheriff):

2 name:

3 address:

4 3. I surrendered the following firearms as provided in item 2 and have attached
5 a receipt from the sheriff or from the 3rd person (if the person did not provide a
6 receipt, attach a description of the firearm(s):

7 4. The injunction has (been vacated) (expired and has not been extended).

8 5. I (have) (have not) been convicted of a misdemeanor crime of domestic
9 violence.

10 6. I (have) (have not) been convicted of a felony.

11 7. I am not prohibited from possessing a firearm under any state or federal law
12 or by the order of any federal court or state court, other than an order from which a
13 judge or family court commissioner is competent to grant relief.

14 I request that the court enter an order directing that the person named under
15 item 2 return to me those firearms that were surrendered under the order of the
16 court.

17 Subscribed and sworn to before me on (date)

18 (Signature of person requesting return of firearms)

19 (Signature of notary public, state of Wisconsin)

20 My commission expires on (date)

21 Dated this day of, (year)

22 Distribution:

23 1. Court – original 2. Petitioner in injunction action 3. Person to whom
24 firearm(s) were surrendered

1 **(5m) NOTIFICATION TO LOCAL LAW ENFORCEMENT.** (a) Within one business day
2 after the court issues an order, extends or modifies a temporary restraining order, or
3 stays or lifts a stay on an injunction under this section, the clerk of the circuit court
4 shall send a copy of the order, the extension or modification, or the stay or lift to the
5 sheriff or to any other local law enforcement agency that is the repository for such
6 actions and that has jurisdiction over the premises of the petitioner.

7 (b) No later than 24 hours after receiving the information under par. (a), the
8 sheriff or other local law enforcement agency under par. (a) shall enter the
9 information concerning the order issued, the extension or modification, or the stay
10 or lift of the injunction under par. (a) into the transaction information for
11 management of enforcement system. The sheriff or other local law enforcement
12 agency shall also make available to other law enforcement agencies, through a
13 verification system, the information received and entered under this paragraph. The
14 information need not be maintained after the order or injunction is no longer in
15 effect.

16 **(6) SURRENDER OF FIREARM TO SHERIFF.**

17 (e) 2. If an injunction expires and is not extended, or an injunction is vacated,
18 a sheriff may charge the respondent for any costs incurred 30 days after the
19 injunction expires for storage of the firearm surrendered to the sheriff due to that
20 injunction. A sheriff may dispose of a firearm surrendered to the sheriff due to that
21 injunction 12 months after the injunction expires or is vacated and, if the sheriff
22 disposes of the firearm, the sheriff may charge the respondent for the costs of
23 disposal.

24 **(7) RETURN OF FIREARM.**



State of Wisconsin
2013-2014 LEGISLATURE

CORRECTIONS IN:

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 464**

Prepared by the Legislative Reference Bureau
March 26, 2014

In enrolling, the following correction was made:

1. Page 4, line 15: delete "petition" and substitute "petition."

(END)



**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 464**

February 17, 2014 – Offered by Representative BIES.

1 At the locations indicated, amend the substitute amendment as follows:

AA 1-1

2 **1.** Page 2, line 10: after that line insert:

3 “**SECTION 1d.** 165.63 (3) and (4) (d) of the statutes, as created by 2013 Wisconsin
4 Act (Assembly Bill 727), are amended to read:

5 165.63 (3) REQUESTS FOR INJUNCTIONS. In making a determination required
6 under s. ~~813.12 (4m) (b), 813.122 (5m) (b), 813.123 (5m) (g), or 813.125 (4m) (d)~~
7 813.1285 (7) (a), a judge or court commissioner shall request information under sub.
8 (2) from the department or from a law enforcement agency or law enforcement officer
9 as provided in sub. (4) (d).

10 (4) (d) Aid the court in making a determination required under s. ~~813.12 (4m)~~
11 ~~(b), 813.122 (5m) (b), 813.123 (5m) (g), or 813.125 (4m) (d)~~ 813.1285 (7) (a).”

12 **2.** Page 7, line 16: after that line insert:

AA1-2

1 **SECTION 18g.** 813.123 (4) (c) of the statutes is amended to read:

2 813.123 (4) (c) The temporary restraining order is in effect until a hearing is
3 held on issuance of an injunction under sub. (5), except that the court may extend the
4 temporary restraining order under s. 813.1285. A judge shall hold a hearing on
5 issuance of an injunction within 14 days after the temporary restraining order is
6 issued, unless the time is extended upon the written consent of the parties or
7 extended once for 14 days upon a finding that the respondent has not been served
8 with a copy of the temporary restraining order although the petitioner has exercised
9 due diligence.

10 **SECTION 18i.** 813.123 (5) (a) 2. of the statutes is renumbered 813.123 (5) (a) 2.
11 (intro.) and amended to read:

12 813.123 (5) (a) 2. (intro.) The petitioner serves upon the respondent a copy of
13 the petition and notice of the time for hearing on the issuance of the injunction, or
14 the respondent serves upon the petitioner notice of the time for hearing on the
15 issuance of the injunction. The notice served under this subdivision shall inform the
16 respondent that, if the judge or circuit court commissioner issues an injunction, the
17 judge or circuit court commissioner may also order the respondent not to possess a
18 firearm while the injunction is in effect. The person who serves the respondent with
19 the notice shall also provide the respondent with all of the following information:

20 **SECTION 18k.** 813.123 (5) (a) 2. a., b. and c. of the statutes are created to read:

21 813.123 (5) (a) 2. a. Notice of the requirements and penalties under s. 941.29
22 (1) (g) and (2) (d) and notice of any similar applicable federal laws and penalties.

23 b. An explanation of s. 813.1285, including the procedures for surrendering a
24 firearm and the circumstances listed under s. 813.1285 under which a respondent
25 must appear at a hearing to surrender firearms.

1 c. A firearm possession form developed under s. 813.1285 (5) (a), with
2 instructions for completing and returning the form.

3 **SECTION 18n.** 813.123 (5m) (c) 1. of the statutes, as created by 2013 Wisconsin
4 Act (Assembly Bill 727), is amended to read:

5 813.123 (5m) (c) 1. Inform the respondent named in the petition of the
6 requirements and penalties under s. 941.29 and any similar applicable federal laws
7 and penalties.

8 **SECTION 18p.** 813.123 (5m) (c) 2. of the statutes, as created by 2013 Wisconsin
9 Act (Assembly Bill 727), is amended to read:

10 813.123 (5m) (c) 2. Except as provided in par. (d), require in writing the
11 respondent to surrender any firearms that he or she owns or has in his or her
12 possession to the sheriff of the county in which the action under this section was
13 commenced, to the sheriff of the county in which the respondent resides, or to another
14 person designated by the respondent and approved by the judge or circuit court
15 commissioner. ~~The judge or circuit court commissioner shall approve the person~~
16 ~~designated by the respondent unless the judge or circuit court commissioner finds~~
17 ~~that the person is inappropriate and places the reasons for the finding on the record.~~
18 ~~If a firearm is surrendered to a person designated by the respondent and approved~~
19 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~
20 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~
21 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

22 **SECTION 18r.** 813.123 (5m) (e), (f), (g) and (h) of the statutes, as created by 2013
23 Wisconsin Act (Assembly Bill 727), are repealed.

24 **SECTION 18t.** 813.123 (9) (c) of the statutes is amended to read:

1 813.123 (9) (c) A respondent who does not appear at a hearing at which the
 2 court orders an injunction under sub. (5) but who has been served with a copy of the
 3 petition and notice of the time for hearing under sub. (5) (a) 2. that includes the
 4 information required under sub. (5) (a) 2. a., b., and c. has constructive knowledge
 5 of the existence of the injunction and may be arrested for violation of the injunction
 6 regardless of whether he or she has been served with a copy of the injunction.”.

7 **3.** Page 10, line 1: delete lines 1 to 4 and substitute:

AA1-3

8 (am) “Injunction” means an injunction issued under s. 813.12 (4) or 813.122
 9 (5); an injunction issued under s. 813.123 if the court has required the individual to
 10 surrender his or her firearms under s. 813.123 (5m); or an injunction issued under
 11 s. 813.125 if the court has required the individual to surrender his or her firearms
 12 under s. 813.125 (4m). “Injunction” includes an injunction that has been stayed
 13 under this section”.

14 **4.** Page 16, line 21: after that line insert:

AA1-4

15 “Adult-at-risk petition”.

16 **5.** Page 19, line 15: after that line insert:

AA1-5

17 **SECTION 30g. Nonstatutory provisions.**

18 (1) If 2013 Wisconsin Act ... (Assembly Bill 727), as affected by 2013 Assembly
 19 Amendment 2 to Assembly Bill 727, is not enacted into law then the treatment of
 20 sections 165.63 (3) and (4) (d) and 813.123 (4) (c), (5m) (c) 1. and 2., (e), (f), (g), and
 21 (h), and (9) (c) of the statutes, the renumbering and amendment of section 813.123
 22 (5) (a) 2. of the statutes, and the creation of section 813.123 (5) (a) 2. a., b. and c. of

1 the statutes and items 3. and 4. of assembly amendment (LRBa1813/1) to
2 Assembly Substitute Amendment 1 to Assembly Bill 464 are void".

3 (END)