



**SENATE SUBSTITUTE AMENDMENT 1,
TO 1995 SENATE BILL 488**

March 27, 1996 - Offered by COMMITTEE ON JUDICIARY.

1 **AN ACT** *to repeal* 813.12 (8) (a) 1. and 2.; *to renumber and amend* 813.12 (8)
2 (a) (intro.); *to amend* 175.35 (1) (at), 813.12 (6) (am) 1., 813.12 (6) (b), 813.12
3 (6) (c), 813.12 (7) (a), 813.12 (7) (b), 814.61 (1) (d), 814.70 (1), 814.70 (3) (intro.)
4 and 941.29 (1) (f); *to repeal and recreate* 813.12 (9); and *to create* 806.247,
5 813.122 (12), 813.123 (12), 813.125 (8) and 813.128 of the statutes; **relating to:**
6 giving full faith and credit to and enforcement of foreign orders providing
7 protection to individuals and providing a penalty.

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

8 **SECTION 1.** 175.35 (1) (at) of the statutes, as created by 1995 Wisconsin Act 71,
9 is amended to read:

10 175.35 (1) (at) "Firearms restrictions record search" means a search of
11 department of justice records to determine whether a person seeking to purchase a
12 handgun is prohibited from possessing a firearm under s. 941.29. "Firearms
13 restriction record search" includes a criminal history record search, a search to
14 determine whether a person is prohibited from possessing a firearm under s. 51.20

1 (13) (cv), a search to determine whether the person is subject to an injunction under
2 s. 813.12 or 813.122, or a tribal injunction issued by a court established by any
3 federally recognized Wisconsin Indian tribe or band, except the Menominee Indian
4 tribe of Wisconsin, that includes notice to the respondent that he or she is subject to
5 the requirements and penalties under s. 941.29 and that has been filed with the
6 circuit court under s. ~~813.12 (9) (a)~~ 806.247 (3), and a search to determine whether
7 the person is prohibited from possessing a firearm under s. 813.125 (4m).

8 **SECTION 2.** 806.247 of the statutes is created to read:

9 **806.247 Full faith and credit for foreign protection orders. (1)**

10 DEFINITIONS. In this section:

11 (a) "Bodily harm" has the meaning given in s. 939.22 (4).

12 (b) "Foreign protection order" means any temporary or permanent injunction
13 or order of a civil or criminal court of the United States, of an Indian tribe or of any
14 other state issued for preventing abuse, bodily harm, communication, contact,
15 harassment, physical proximity, threatening acts or violence by or to a person, other
16 than support or custody orders.

17 **(2) STATUS OF A FOREIGN PROTECTION ORDER.** (a) A foreign protection order shall
18 be accorded full faith and credit by the courts in this state and shall be enforced as
19 if the order were an order of a court of this state if the order meets all of the following
20 conditions:

21 1. The foreign protection order was obtained after providing the person against
22 whom the protection order was sought a reasonable notice and opportunity to be
23 heard sufficient to protect his or her right to due process. If the foreign protection
24 order is an ex parte injunction or order, the person against whom the order was
25 obtained shall have been given notice and an opportunity to be heard within a

1 reasonable time after the order was issued sufficient to protect his or her right to due
2 process.

3 2. The court that issued the order had jurisdiction over the parties and over the
4 subject matter.

5 (b) A foreign protection order issued against the person who filed a written
6 pleading with a court for a protection order is not entitled to full faith and credit
7 under this subsection if any of the following occurred:

8 1. No written pleading was filed seeking the foreign protection order against
9 that person.

10 2. A cross or counter petition was filed but the court did not make a specific
11 finding that each party was entitled to a foreign protection order.

12 **(3) FILING OF A FOREIGN PROTECTION ORDER.** (a) A copy of any foreign protection
13 order, or of a modification of a foreign protection order that is on file with the circuit
14 court, that is authenticated in accordance with an act of congress, an Indian tribal
15 legislative body or the statutes of another state may be filed in the office of the clerk
16 of circuit court of any county of this state. The clerk shall treat any foreign protection
17 order or modification so filed in the same manner as a judgment of the circuit court.

18 (b) Within one business day after a foreign protection order or a modification
19 of a foreign protection order is filed under this subsection, the clerk of circuit court
20 shall send a copy of the foreign protection order or modification of the order to the
21 sheriff in that circuit or to the local law enforcement agency that is the central
22 repository for orders and injunctions in that circuit.

23 (c) The sheriff or law enforcement agency that receives a copy of a foreign
24 protection order or of a modification of an order from the clerk under par. (b) shall
25 enter the information received concerning the order or modification of an order into

1 the transaction information for management of enforcement system no later than 24
2 hours after receiving the information. The sheriff or law enforcement agency shall
3 make available to other law enforcement agencies, through a verification system,
4 information on the existence and status of any order or modification of an order filed
5 under this subsection. The information need not be maintained after the order or
6 modification is no longer in effect.

7 **SECTION 3.** 813.12 (6) (am) 1. of the statutes, as created by 1995 Wisconsin Act
8 71, is amended to read:

9 813.12 (6) (am) 1. If an injunction is issued or extended under sub. (4) or if a
10 tribal injunction is filed under ~~sub. (9) (a)~~ s. 806.247 (3), the clerk of the circuit court
11 shall notify the department of justice of the injunction and shall provide the
12 department of justice with information concerning the period during which the
13 injunction is in effect and information necessary to identify the respondent for
14 purposes of a firearms restrictions record search under s. 175.35 (2g) (c).

15 **SECTION 4.** 813.12 (6) (b) of the statutes, as affected by 1995 Wisconsin Act 71,
16 is amended to read:

17 813.12 (6) (b) Within one business day after an order or injunction is issued,
18 extended, modified or vacated under this section ~~or after a tribal order or injunction~~
19 ~~is filed under sub. (9) (a)~~, the clerk of the circuit court shall send a copy of the order
20 or injunction, or of the order extending, modifying or vacating an order or injunction,
21 to the sheriff or to any other local law enforcement agency which is the central
22 repository for orders and injunctions and which has jurisdiction over the petitioner's
23 premises.

24 **SECTION 5.** 813.12 (6) (c) of the statutes, as affected by 1995 Wisconsin Act 71,
25 is amended to read:

1 813.12 (6) (c) No later than 24 hours after receiving the information under par.
2 (b), the sheriff or other appropriate local law enforcement agency under par. (b) shall
3 enter the information concerning an order or injunction issued, extended, modified
4 or vacated under this section ~~or a tribal order or injunction filed under sub. (9) (a)~~
5 into the transaction information for management of enforcement system. The sheriff
6 or other appropriate local law enforcement agency shall also make available to other
7 law enforcement agencies, through a verification system, information on the
8 existence and status of any order or injunction issued under this section. The
9 information need not be maintained after the order or injunction is no longer in
10 effect.

11 **SECTION 6.** 813.12 (7) (a) of the statutes is amended to read:

12 813.12 (7) (a) A petitioner under sub. (5) ~~or a tribal court petitioner~~ presents
13 the law enforcement officer with a copy of a court order issued under sub. (3) or (4)
14 ~~or a tribal order or injunction issued against the person which has been filed with a~~
15 ~~circuit court in accordance with sub. (9) (a),~~ or the law enforcement officer determines
16 that such an order exists through communication with appropriate authorities.

17 **SECTION 7.** 813.12 (7) (b) of the statutes is amended to read:

18 813.12 (7) (b) The law enforcement officer has probable cause to believe that
19 the person has violated the court order issued under sub. (3) or (4) by any circuit court
20 in this state ~~or a tribal order or injunction issued against the person that has been~~
21 ~~filed with any circuit court in this state in accordance with sub. (9) (a).~~

22 **SECTION 8.** 813.12 (8) (a) (intro.) of the statutes is renumbered 813.12 (8) (a)

23 and amended to read:

1 813.12 (8) (a) Whoever knowingly violates ~~any of the following a temporary~~
2 restraining order or injunction issued under sub. (3) or (4) shall be fined not more
3 than \$1,000 or imprisoned for not more than 9 months or both.

4 **SECTION 9.** 813.12 (8) (a) 1. and 2. of the statutes are repealed.

5 **SECTION 10.** 813.12 (9) of the statutes, as affected by 1995 Wisconsin Act 71,
6 is repealed and recreated to read:

7 813.12 (9) NOTICE OF FULL FAITH AND CREDIT. An order or injunction issued under
8 sub. (3) or (4) shall include a statement that the order or injunction may be accorded
9 full faith and credit in every civil or criminal court of the United States, civil or
10 criminal courts of any other state and Indian tribal courts to the extent that such
11 courts may have personal jurisdiction over nontribal members.

12 **SECTION 11.** 813.122 (12) of the statutes is created to read:

13 813.122 (12) NOTICE OF FULL FAITH AND CREDIT. An order or injunction issued
14 under sub. (4) or (5) shall include a statement that the order or injunction may be
15 accorded full faith and credit in every civil or criminal court of the United States, civil
16 or criminal courts of any other state and Indian tribal courts to the extent that such
17 courts may have personal jurisdiction over nontribal members.

18 **SECTION 12.** 813.123 (12) of the statutes is created to read:

19 813.123 (12) NOTICE OF FULL FAITH AND CREDIT. An order or injunction issued
20 under sub. (4) or (5) shall include a statement that the order or injunction may be
21 accorded full faith and credit in every civil or criminal court of the United States, civil
22 or criminal courts of any other state and Indian tribal courts to the extent that such
23 courts may have personal jurisdiction over nontribal members.

24 **SECTION 13.** 813.125 (8) of the statutes is created to read:

1 813.125 **(8)** NOTICE OF FULL FAITH AND CREDIT. An order or injunction issued
2 under sub. (3) or (4) shall include a statement that the order or injunction may be
3 accorded full faith and credit in every civil or criminal court of the United States, civil
4 or criminal courts of any other state and Indian tribal courts to the extent that such
5 courts may have personal jurisdiction over nontribal members.

6 **SECTION 14.** 813.128 of the statutes is created to read:

7 **813.128 Foreign protection orders. (1)** ENFORCEMENT OF FOREIGN
8 PROTECTION ORDERS. (a) A foreign protection order or modification of the foreign
9 protection order that meets the requirements under s. 806.247 (2) has the same effect
10 as an order issued under s. 813.12, 813.122, 813.123 or 813.125, except that the
11 foreign protection order or modification shall be enforced according to its own terms.

12 (b) A law enforcement officer shall arrest and take the subject of a foreign
13 protection order into custody if all of the following occur:

14 1. A person protected under a foreign protection order presents the law
15 enforcement officer with a copy of a foreign protection order issued against the
16 subject, or the law enforcement officer determines that a valid foreign protection
17 order exists against the subject through communication with appropriate
18 authorities. If a law enforcement officer examines a copy of a foreign protection
19 order, the order, with any modification, is presumed to be valid if the order or
20 modification appears to be valid on its face and circumstances suggest that the order
21 and any modification are in effect.

22 2. The law enforcement officer has probable cause to believe that the person has
23 violated the terms of the foreign protection order or modification of the order.

24 **(2)** PENALTY. A person who knowingly violates a condition of a foreign
25 protection order or modification of a foreign protection order that is entitled to full

1 faith and credit under s. 806.247 shall be fined not more than \$1,000 or imprisoned
2 for not more than 9 months or both. If a foreign protection order and any modification
3 of that order that is entitled to full faith and credit under s. 806.247 remains current
4 and in effect at the time that a court convicts a person for a violation of that order
5 or modification of that order, but that order or modification has not been filed under
6 s. 806.247, the court shall direct the clerk of circuit court to file the order and any
7 modification of the order.

8 **(3) IMMUNITY.** A law enforcement officer, law enforcement agency, prosecuting
9 attorney or clerk of circuit court is immune from civil and criminal liability for his
10 or her acts or omissions arising out of a decision related to the filing of a foreign
11 protection order or modification or to the detention or arrest of an alleged violator of
12 a foreign protection order or modification if the act or omission is done in a good faith
13 effort to comply with this section and s. 806.247.

14 **SECTION 15.** 814.61 (1) (d) of the statutes is amended to read:

15 814.61 (1) (d) No fee charged under this subsection in any action commenced
16 under s. 813.12 may be collected from a petitioner under s. 813.12. The fee charged
17 under this subsection for petitions filed and granted under s. 813.12 shall be collected
18 from the respondent under s. 813.12 if he or she is convicted of violating a temporary
19 restraining order or injunction issued under s. 813.12 (3) or (4) ~~or a tribal order or~~
20 ~~injunction filed under s. 813.12 (9).~~

21 **SECTION 16.** 814.70 (1) of the statutes is amended to read:

22 814.70 (1) **SERVICE OF PROCESS.** For each service or attempted service of a
23 summons or any other process for commencement of an action, a writ, an order of
24 injunction, a subpoena or any other order, \$12 for each defendant or person. If there
25 is more than one defendant or person to be served at a given address, \$6 for each

1 additional defendant or person. No fee charged under this subsection in any action
2 commenced under s. 813.12 may be collected from a petitioner under s. 813.12. The
3 fee charged under this subsection in any action commenced under s. 813.12 shall be
4 collected from the respondent under s. 813.12 if he or she is convicted of violating a
5 temporary restraining order or injunction issued under s. 813.12 (3) or (4) ~~or a tribal~~
6 ~~order or injunction filed under s. 813.12 (9).~~

7 **SECTION 17.** 814.70 (3) (intro.) of the statutes is amended to read:

8 814.70 (3) TRAVEL; CIVIL PROCESS. (intro.) For travel in serving any summons,
9 writ or other process, except criminal warrants, and except that a fee under this
10 subsection in any action commenced under s. 813.12 may not be collected from a
11 petitioner but shall be collected from the respondent if he or she is convicted of
12 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4)
13 ~~or a tribal order or injunction filed under s. 813.12 (9):~~

14 **SECTION 18.** 941.29 (1) (f) of the statutes, as created by 1995 Wisconsin Act 71,
15 is amended to read:

16 941.29 (1) (f) Enjoined under an injunction issued under s. 813.12 or 813.122,
17 or under a tribal injunction issued by a court established by any federally recognized
18 Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin,
19 that includes notice to the respondent that he or she is subject to the requirements
20 and penalties under s. 941.29 and that has been filed under s. 813.12 (9) (a) 806.247
21 (3).

22 **SECTION 19. Effective date.**

23 (1) This act takes effect on April 1, 1996, or on the day after publication,
24 whichever is later.

25 (END)