
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 256
[2021 Senate Bill 519]

**Permanent Injunctions When
Respondent Convicted of Sexual
Assault Against Petitioner**

BACKGROUND

Wisconsin law contains procedures allowing a person to petition a court for an order that requires another individual to refrain from certain acts against the petitioner. While informally referred to as “restraining orders,” these types of procedures consist of two steps: a temporary restraining order (TRO) and an injunction. The four types of TROs and injunctions that are authorized in Wisconsin are: (1) domestic abuse; (2) child abuse; (3) individual-at-risk; and (4) harassment.

Injunctions are effective for a duration ordered by the court, though domestic abuse, individual-at-risk, and harassment injunctions may not exceed four years in duration, and child abuse injunctions may not exceed two years or until the child victim attains 18 years of age, whichever occurs first.

However, the court may issue a domestic abuse, individual-at-risk, or harassment injunction for up to 10 years, if the court finds there is a substantial risk that the respondent may commit certain forms of intentional homicide or sexual assault against the petitioner. Similarly, the court may order a child abuse injunction to be in effect for up to five years, if the court finds there is a substantial risk that the respondent may commit certain forms of intentional homicide or sexual assault against the child victim.

2021 WISCONSIN ACT 256

2021 Wisconsin Act 256 authorizes the court to enter a permanent injunction in each of the four types of injunctions that exist under state law, if requested by the petitioner and other conditions are met.

Under the act, a court may, upon the petitioner’s request, order that an injunction be in effect permanently if the court finds that the respondent has been convicted of first-, second-, or third-degree sexual assault and the petitioner was the crime victim. In the case of a child abuse injunction, the act authorizes a court to order that an injunction be in effect permanently upon the petitioner’s request, if the respondent has been convicted of sexual assault of a child or repeated acts of sexual assault of the same child, and the child who is the subject of the child abuse injunction was the crime victim.

Additionally, the act creates a procedure for a respondent to request review of a permanent injunction if the respondent’s criminal conviction that formed the basis for a permanent injunction is vacated and, in that circumstance, requires a judge to vacate or modify the duration of the injunction. If modified, the injunction may not be in effect for a longer period than the maximum period that would have been possible when the injunction was first ordered, had the injunction not been entered permanently. The judge must vacate the injunction if the maximum possible period from the time the injunction was first ordered has elapsed.

Effective date: April 17, 2022

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