



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1674/3
PJH:kjf

2015 SENATE BILL 490

December 29, 2015 – Introduced by Senators PETROWSKI, HANSEN, MARKLEIN, OLSEN and WANGGAARD, cosponsored by Representatives LOUDENBECK, KLEEFISCH, BALLWEG, BERCEAU, BERNIER, E. BROOKS, HORLACHER, JACQUE, KAHL, KNODL, T. LARSON, MURPHY, MURSAU, A. OTT, RIPP, SKOWRONSKI, SUBECK, THIESFELDT and OHNSTAD. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to renumber* 813.126; *to amend* 813.12 (6) (a) and 813.125 (5g) (c); *to*
2 *repeal and recreate* 813.122 (9) (a) and 813.123 (8) (a); and *to create* 813.115,
3 813.12 (6) (ag), 813.12 (6) (e), 813.122 (9) (d), 813.123 (8) (d), 813.125 (5g) (cm),
4 813.125 (5g) (e), 813.126 (1) (title) and 813.126 (2) of the statutes; **relating to:**
5 serving certain documents relating to restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats (petitioner) may obtain from a court a temporary restraining order against the person who has committed the acts of abuse, harassment, or making a threat (respondent). The restraining order bars the respondent from contacting the petitioner and requires the respondent to stay away from the petitioner's residence and other places temporarily occupied by the petitioner until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer lasting injunction.

If the court determines that the respondent has engaged in, or may engage in, acts of abuse, harassment, or threats against the petitioner, the court may issue an injunction. An injunction may stay in effect for up to four years and bars the respondent from contacting the petitioner, requires the person to stay away from the petitioner's residence, and may require the respondent to stay away from other locations temporarily occupied by the petitioner.

Currently, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the court can order, upon the

SENATE BILL 490

petitioner's request, a sheriff to assist the petitioner in serving the respondent or in attaining physical possession of the petitioner's residence.

Under this bill, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the clerk of court is required to forward a copy of the order or injunction to the sheriff and the sheriff is required to assist the petitioner in serving the respondent, unless the petitioner opts to hire a private server at his or her own expense. Under the bill, a sheriff may supply a form that is given to the petitioner by the clerk of court in order to gather information about the respondent that may be useful in effecting service. The bill requires the clerk of court to maintain the form in a confidential manner, and allows the clerk of court to transmit documents to the sheriff electronically, so long as the contents of the documents are protected from unauthorized disclosure. The bill requires a sheriff who serves or executes a document and who uses an automated victim notification system to give the petitioner timely notification of the service.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 813.115 of the statutes is created to read:

2 **813.115 Service notification system.** A sheriff who executes or serves, or
3 who assists a petitioner in executing or serving, a temporary restraining order,
4 injunction, or other document or notice under s. 812.12, 813.122, 813.123, or 813.125
5 may use the Wisconsin Statewide Victim Notification service or another service
6 notification system administered by the department of corrections that enables the
7 petitioner to receive an automated notification of the service of the temporary
8 restraining order, injunction, or other document or notice that must be served on the
9 respondent. A sheriff for a county that uses the system shall enter each order for
10 service into the system as soon as practicable so that the petitioner receives timely
11 notification of the service. The clerk of court for a county that uses a service
12 notification system shall, at the time a petition is filed under s. 812.12, 813.122,

SENATE BILL 490

1 813.123, or 813.125, make available to the petitioner information on how to gain
2 access to the system.

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

4 813.12 (6) (a) If an order is issued under this section, upon request by the
5 petitioner the court or circuit court commissioner shall order the sheriff to
6 accompany the petitioner and assist in placing him or her in physical possession of
7 his or her residence ~~or to otherwise assist in executing or serving the temporary~~
8 ~~restraining order or injunction. The petitioner may, at the petitioner's expense, use~~
9 ~~a private process server to serve papers on the respondent.~~

10 **SECTION 3.** 813.12 (6) (ag) of the statutes is created to read:

11 813.12 (6) (ag) 1. The clerk of the circuit court shall forward to the sheriff any
12 temporary restraining order, injunction, or other document or notice that must be
13 served on the respondent under this section and the sheriff shall assist the petitioner
14 in executing or serving the temporary restraining order, injunction, or other
15 document or notice on the respondent. The petitioner may, at his or her expense,
16 elect to use a private server to effect service.

17 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
18 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
19 provide information about the respondent that may be useful to the sheriff in
20 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
21 shall maintain the form provided under this subdivision in a confidential manner.

22 **SECTION 4.** 813.12 (6) (e) of the statutes is created to read:

23 813.12 (6) (e) A law enforcement agency and a clerk of circuit court may use
24 electronic transmission to facilitate the exchange of documents under this section.

SENATE BILL 490**SECTION 4**

1 Any person who uses electronic transmission shall ensure that the electronic
2 transmission does not allow unauthorized disclosure of the documents transmitted.

3 **SECTION 5.** 813.122 (9) (a) of the statutes is repealed and recreated to read:

4 813.122 (9) (a) 1. The clerk of the circuit court shall forward to the sheriff any
5 temporary restraining order, injunction, or other document or notice that must be
6 served on the respondent under this section and the sheriff shall assist the petitioner
7 in executing or serving the temporary restraining order, injunction, or other
8 document or notice on the respondent. The petitioner may, at his or her expense,
9 elect to use a private server to effect service.

10 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
11 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
12 provide information about the respondent that may be useful to the sheriff in
13 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
14 shall maintain the form provided under this subdivision in a confidential manner.

15 **SECTION 6.** 813.122 (9) (d) of the statutes is created to read:

16 813.122 (9) (d) A law enforcement agency and a clerk of circuit court may use
17 electronic transmission to facilitate the exchange of documents under this section.
18 Any person who uses electronic transmission shall ensure that the electronic
19 transmission does not allow unauthorized disclosure of the documents transmitted.

20 **SECTION 7.** 813.123 (8) (a) of the statutes is repealed and recreated to read:

21 813.123 (8) (a) 1. The clerk of the circuit court shall forward to the sheriff any
22 temporary restraining order, injunction, or other document or notice that must be
23 served on the respondent under this section and the sheriff shall assist the petitioner
24 in executing or serving the temporary restraining order, injunction, or other

SENATE BILL 490

1 document or notice on the respondent. The petitioner may, at his or her expense,
2 elect to use a private server to effect service.

3 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
4 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
5 provide information about the respondent that may be useful to the sheriff in
6 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
7 shall maintained the form provided under this subdivision in a confidential manner.

8 **SECTION 8.** 813.123 (8) (d) of the statutes is created to read:

9 813.123 (8) (d) A law enforcement agency and a clerk of circuit court may use
10 electronic transmission to facilitate the exchange of documents under this section.
11 Any person who uses electronic transmission shall ensure that the electronic
12 transmission does not allow unauthorized disclosure of the documents transmitted.

13 **SECTION 9.** 813.125 (5g) (c) of the statutes is amended to read:

14 813.125 (5g) (c) If an order is issued under this section, upon request by the
15 petitioner the court or circuit court commissioner shall order the sheriff to
16 accompany the petitioner and assist in placing him or her in physical possession of
17 his or her residence ~~or to otherwise assist in executing or serving the temporary~~
18 ~~restraining order or injunction. The petitioner may, at the petitioner's expense, use~~
19 ~~a private process server to serve papers on the respondent.~~

20 **SECTION 10.** 813.125 (5g) (cm) of the statutes is created to read:

21 813.125 (5g) (cm) 1. The clerk of the circuit court shall forward to the sheriff
22 any temporary restraining order, injunction, or other document or notice that must
23 be served on the respondent under this section and the sheriff shall assist the
24 petitioner in executing or serving the temporary restraining order, injunction, or

SENATE BILL 490**SECTION 10**

1 other document or notice on the respondent. The petitioner may, at his or her
2 expense, elect to use a private server to effect service.

3 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
4 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
5 provide information about the respondent that may be useful to the sheriff in
6 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
7 shall maintain the form provided under this subdivision in a confidential manner.

8 **SECTION 11.** 813.125 (5g) (e) of the statutes is created to read:

9 813.125 (5g) (e) A law enforcement agency and a clerk of circuit court may use
10 electronic transmission to facilitate the exchange of documents under this section.
11 Any person who uses electronic transmission shall ensure that the electronic
12 transmission does not allow unauthorized disclosure of the documents transmitted.

13 **SECTION 12.** 813.126 of the statutes is renumbered 813.126 (1).

14 **SECTION 13.** 813.126 (1) (title) of the statutes is created to read:

15 813.126 (1) (title) TIME LIMITS.

16 **SECTION 14.** 813.126 (2) of the statutes is created to read:

17 813.126 (2) NOTICE. The clerk of circuit court shall provide notice of a motion
18 under sub. (1) to the nonmoving party. This subsection does not apply to a motion
19 to review a denial of a temporary restraining order.

20 **SECTION 15. Effective date.**

21 (1) This act takes effect on the first day of the 2nd month beginning after
22 publication.

23

(END)