



1995 SENATE BILL 488

January 16, 1996 - Introduced by Senators HUELSMAN, PANZER, BUETTNER, CLAUSING, ROSENZWEIG, DARLING, DRZEWIECKI, FARROW, BURKE and GROBSCHMIDT, cosponsored by Representatives KRUG, GOETSCH, PLACHE, GRONEMUS, R. YOUNG, MUSSER, LA FAVE, ROBSON, OLSEN, BOYLE, ALBERS, OWENS, WIRCH, ZIEGELBAUER, BALDWIN, RUTKOWSKI, GREEN, F. LASEE, R. POTTER, NOTESTEIN, HANSON, SCHNEIDERS and KLUSMAN, by request of Wisconsin Coalition Against Domestic Violence. Referred to Committee on Judiciary.

- 1 **AN ACT to create** 806.247 of the statutes; **relating to:** giving full faith and credit
2 to orders providing protection to individuals.

Analysis by the Legislative Reference Bureau

Under current law, a foreign judgment issued by a court of the United States or of any other court that is entitled to full faith and credit in this state may be filed in the office of the clerk of circuit court and is subject to the same procedures and defenses as a judgement issued in a court of this state. Current law provides that the judicial records, orders and judgments of an Indian tribal court in Wisconsin have the same full faith and credit in the courts of this state as the records, orders and judgments of any other governmental entity if certain conditions are met.

This bill gives full faith and credit to certain permanent and temporary orders that a court of the United States, an Indian tribal court or a court of any other state issues to protect a person from abuse, bodily harm, harassment and other forms of contact or violence. To receive full faith and credit and thus be enforceable in this state, the bill requires that a protection order be issued by a court that has jurisdiction over the parties and the subject matter. In addition, the court that issued the protection order must have provided the person against whom the protection order was sought a reasonable notice and opportunity to be heard sufficient to protect his or her right to due process. Under the bill, a protection order issued against the person who filed a written pleading with a court for a protection order for his or her protection is not eligible for full faith and credit in the courts of this state if no written pleading was filed in the action requesting that a protection order be issued against the person who filed for a protection order or if a such a pleading was filed but the court did not make a finding that a party was entitled to a protection order.

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

1 **SECTION 1.** 806.247 of the statutes is created to read:

2 **806.247 Full faith and credit for protection orders. (1) DEFINITIONS.** In
3 this section:

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

5 (b) "Partner" means a person who shares a child in common.

6 (c) "Protection order" means any temporary or permanent injunction or order
7 issued for preventing abuse, bodily harm, communication, contact, harassment,
8 physical proximity, threatening acts or violence by or to a person, other than support
9 or custody orders, of a court of the United States, an Indian tribal court or a court of
10 this state or any other state.

11 **(2) STATUS OF A PROTECTION ORDER.** (a) Except as provided in par. (b), a
12 protection order is entitled to full faith and credit in this state if all of the following
13 occurred:

14 1. The protection order was obtained after providing the person against whom
15 the protection order was sought a reasonable notice and opportunity to be heard
16 sufficient to protect his or her right to due process. If the protection order is an ex
17 parte injunction or order, the person against whom the order was obtained was given
18 notice and an opportunity to be heard within a reasonable time after the order was
19 issued sufficient to protect his or her right to due process.

20 2. The court that issued the order had jurisdiction over the parties and over the
21 subject matter.

22 (b) A protection order issued against the person who filed a written pleading
23 with a court for a protection order for his or her protection against a spouse, a former
24 spouse, an adult family member, as defined in s. 46.95 (1) (b), an adult household

1 member, as defined in s. 46.95 (1) (c) or a partner is not entitled to full faith and credit
2 under this subsection if any of the following occurred:

3 1. No cross or counter petition, complaint or other written pleading was filed
4 in the action requesting that a protection order be issued against the person who filed
5 for a protection order.

6 2. A cross or counter petition, complaint or other written pleading was filed in
7 the action requesting that a protection order be issued against the person who filed
8 for a protection order but the court hearing the action did not make a specific finding
9 that a party was entitled to a protection order.

10 **(3) FILING OF A PROTECTION ORDER.** A copy of any protection order authenticated
11 in accordance with the act of congress, an Indian tribal legislative body or the
12 statutes of this or another state may be filed in the office of the clerk of circuit court
13 of any county of this state. The clerk shall treat any protection order so filed in the
14 same manner as a judgment of the circuit court A protection order filed under this
15 subsection that meets the requirements under sub. (2) has the same effect and is
16 subject to the same procedures, defenses, and proceedings for reopening, vacating or
17 staying as a judgment of a circuit court of this state and may be enforced or satisfied
18 in the same manner.

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(END)