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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

1999-00

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Judiciary and Personal Privacy
(AC-JPP)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)

Assembly

Record of Committee Proceedings

Committee on Judiciary and Personal Privacy

Assembly Bill 671

Relating to: court fees charged in harassment actions.

By Representatives Berceau, Walker, La Fave, Ladwig, Richards, Reynolds, Young, Riley, Musser, Pocan, Albers, Lassa, Wasserman, Sherman, Boyle and Huber; cosponsored by Senators Risser, Plache, Erpenbach, Burke, George, Robson, Roessler, Darling and Huelsman.

January 25, 2000 Referred to committee on Judiciary and Personal Privacy.

March 16, 2000 **PUBLIC HEARING HELD**

Present: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Excused: (0) None.

Appearances for

- Representative Terese Berceau, 76th Assembly District
- Tom Powell, Madison
- Cheri Dubiel, WI Coalition Against Sexual Assault
- Patti Seger, WI Coalition Against Domestic Violence

Appearances against

- None.

Appearances for Information Only

- Ralph Guerin, Madison

Registrations for

- Senator Fred Risser, 26th Senate District
- JoAnna Richard, Attorney General's office
- Representative Scott Walker, 14th Assembly District

Registrations against

- None.

March 16, 2000 **EXECUTIVE SESSION**

Present: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Excused: (0) None.

Moved by Representative Huebsch, seconded by Representative Gundrum, that **Assembly Amendment 1 to Assembly Bill 671** be recommended for introduction and adoption.

Ayes: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Noes: (0) None.

Excused:(0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 9,
Noes 0, Excused 0

Moved by Representative Walker, seconded by Representative Staskunas, that **Assembly Amendment 2 to Assembly Bill 671** be recommended for introduction and adoption.

Ayes: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Noes: (0) None.

Excused:(0) None.

INTRODUCTION AND ADOPTION RECOMMENDED, Ayes 9,
Noes 0, Excused 0

Moved by Representative Walker, seconded by Representative Hebl, that **Assembly Bill 671** be recommended for passage as amended.

Ayes: (9) Representatives Huebsch, Gundrum, Walker, Suder, Grothman, Sherman, Colon, Hebl and Staskunas.

Noes: (0) None.

Excused:(0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 9, Noes 0,
Excused 0

A handwritten signature in black ink, appearing to read "Robert Delaporte", written over a horizontal line.

Robert Delaporte
Committee Clerk

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-16-00
 Moved by: Walker Seconded by: Hebl
 AB: _____ Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:
 Passage *recommended*
 Introduction
 Adoption
 Rejection

Indefinite Postponement
 Tabling
 Concurrence
 Nonconcurrence
 Confirmation

| Committee Member | Aye | No | Absent | Not Voting |
|-----------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Rep. Michael Huebsch, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mark Gundrum | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Walker | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Suder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Glenn Grothman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Gary Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Pedro Colon | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Tom Hebl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Tony Staskunas | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Totals: _____

Motion Carried

Motion Failed

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-16-00

Moved by: _____ Seconded by: _____

AB: GTI Clearinghouse Rule: _____

AB: _____ SB: _____ Appointment: _____

AJR: _____ SJR: _____ Other: _____

A: _____ SR: _____

A/S Amdt: 1

A/S Amdt: _____ to A/S Amdt: _____

A/S Sub Amdt: _____

A/S Amdt: _____ to A/S Sub Amdt: _____

A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- | | |
|--|--|
| <input type="checkbox"/> Passage | <input type="checkbox"/> Indefinite Postponement |
| <input type="checkbox"/> Introduction | <input type="checkbox"/> Tabling |
| <input checked="" type="checkbox"/> Adoption | <input type="checkbox"/> Concurrence |
| <input type="checkbox"/> Rejection | <input type="checkbox"/> Nonconcurrence |
| | <input type="checkbox"/> Confirmation |

| <u>Committee Member</u> | <u>Aye</u> | <u>No</u> | <u>Absent</u> | <u>Not Voting</u> |
|-----------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Rep. Michael Huebsch, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mark Gundrum | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Walker | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Suder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Glenn Grothman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Gary Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Pedro Colon | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Tom Hebl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Tony Staskunas | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Totals: _____

Vote Record

Assembly Committee on Judiciary and Personal Privacy

Date: 3-16-09
 Moved by: Walker Seconded by: Staskunas
 AB: _____ Clearinghouse Rule: _____
 AB: _____ Appointment: _____
 AJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: 2
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

- Be recommended for:
- Passage
 - Introduction
 - Adoption
 - Rejection
 - Indefinite Postponement
 - Tabling
 - Concurrence
 - Nonconcurrence
 - Confirmation

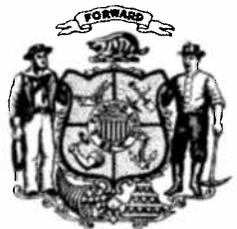
| Committee Member | Aye | No | Absent | Not Voting |
|-----------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Rep. Michael Huebsch, Chair | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Mark Gundrum | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Walker | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Scott Suder | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Glenn Grothman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Gary Sherman | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Pedro Colon | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Tom Hebl | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Rep. Tony Staskunas | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Totals: _____

Motion Carried Motion Failed



WISCONSIN STATE LEGISLATURE



Testimony on AB 671
Assembly Judiciary Committee
Thursday, March 16, 2000
10:00 a.m.
State Capitol, 417 North

My name is Patti Seger and I am the Policy Development Coordinator for the Wisconsin Coalition Against Domestic Violence. The Coalition is a statewide membership organization of battered women, formerly battered women, domestic abuse programs and individuals committed to ending domestic violence. Thank you for the opportunity to speak to you about Assembly Bill 671 today.

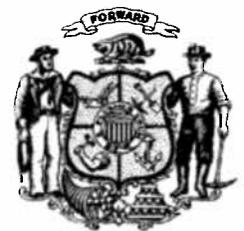
The Coalition Against Domestic Violence strongly supports Assembly Bill 671. This bill will provide increased access to protection for victims of domestic violence by eliminating the financial barriers caused by court filing fees, justice information systems fees, and fees charged by the sheriff related to services of process. Although there are no fees for the Domestic Abuse Temporary Restraining Order, many domestic violence victims are not defined as such under the current definitions in Wis. Stats. 813.12(1)(a)4(b)(c). Types of relationships which cannot be filed under a Domestic Abuse Temporary Restraining Order which we would consider "domestic" are 1) dating relationships where the couple do not nor have not reside(d) together; 2) Adult in-laws or step-parents who do not or have not live(d) with an abusive adult child; and 3) caretakers who abuse elderly or disabled persons who do not reside with the person. Persons in these relationships would be required to file a Harassment (or possibly Vulnerable Adult) Temporary Restraining Order. None of these persons fits the statutory definition of either being related by blood or of residing/resided together.

Court filing fees for civil action filings are currently \$148.00 per action. Sheriff process fees vary according to county population. Process fees are generally charged according to the number of service attempts made. Petitioners may be required to pay \$200.00, or more to obtain a Harassment Temporary Restraining Order. Many communities utilize a process for evaluating indigency to determine whether fees should be waived. This process varies widely throughout Wisconsin and may exclude many people who live on limited or fixed incomes. Persons receiving Social Security benefits or single parents who are working poor are examples of some petitioners who may not qualify for an indigency waiver. The imposition of these fees creates a significant barrier to many persons who would qualify for, and who need, the legal protection provided by a restraining order.

The Wisconsin Coalition Against Domestic Violence believes that AB671 will greatly benefit domestic violence victims whose relationship with their offender falls outside of the definitions within the Domestic Violence Temporary Restraining Orders. We additionally support any amendments to AB671 which propose waiver of court and service fees associated with Child Abuse and Vulnerable Adult Temporary Restraining Orders. Restraining orders were created for the purpose of providing needed protection to victims of abuse or threats of abuse. Passage of AB671 will increase access to protection and safety for all domestic violence victims.



WISCONSIN STATE LEGISLATURE





Wisconsin Coalition Against Sexual Assault

Testimony in Support of AB 671
March 16, 2000

Presented to
The Assembly Committee on Judiciary and Personal Privacy

Good Morning Chairperson Huebsch, and other members of the committee. My name is Cheri Dubiel and I am the Policy Specialist for the Wisconsin Coalition Against Sexual Assault (WCASA). I represent the 36 sexual assault service provider agencies from around the state. I am here today to thank you for holding a hearing on AB 671 and testify in strong support of AB 671, a bill which would eliminate the fees that petitioners are now required to pay for harassment restraining orders and injunctions. We also would strongly support an amendment to extend this fee elimination in child abuse and vulnerable adult restraining orders, since many of the clients our programs work with are child sexual assault victims and increasingly involve vulnerable adults. WCASA feels strongly that victims should not have to provide payment to our courts to offer them protection from a perpetrator. We feel that the concept is inherently flawed in logic, and practically speaking, eliminates the possibility of requesting restraining orders for people who do not have the finances available to pay the fees involved. The component of the bill which requires the subject of the restraining order or injunction to pay the fees, if they are found to violate the restraining order or injunction, places the onus of the responsibility for action from our courts on the perpetrator or abuser, where it belongs. As a society who increasingly attempts to make criminals responsible for their crimes, this provision will send a strong message to citizens of Wisconsin that we will not tolerate violent and abusive behavior.

One of the key service components that sexual assault service provider agencies provide is legal advocacy and technical assistance to sexual assault victims. One facet of this advocacy involves aiding sexual assault victims who wish to obtain restraining orders to protect them from further attack or threatened attack by perpetrators. Currently, persons who are members of a household, family, or in a relationship with a child in common may apply for a domestic abuse restraining order, which currently do not charge fees to petitioners seeking a protective order of this type. Victims who have been assaulted by a stranger or an acquaintance do not qualify for a domestic abuse restraining order, and must instead, seek to obtain a harassment restraining order or a child abuse restraining order. Unlike domestic abuse restraining orders, harassment restraining orders, child abuse restraining orders, and vulnerable adult restraining orders do charge fees.

Depending on the county, the fees for taking out a restraining order include a civil law filing fee, a court automation fee, court support services fee, and costs to the respective county sheriff for service and travel to serve the respondent with the order. These fees can climb into the range of \$150-\$200. With a harassment restraining order, the petitioner can request an "affidavit of indigency," or request that the respondent or subject of the restraining order pay the fees, but both of these situations are fraught with problems.

When considering an "affidavit of indigency," a court considers assets but does not consider debts. Also, the maximum income a person who applies for the fee waiver must make is less than the amount of a standard social security check. It is a hardship for someone with an income at or near the poverty line to pay the fee; it would indeed be difficult for many individuals to come up with an extra \$150-200 in an emergency. It is especially difficult to problem solve and develop a plan to gather this money when you are dealing with the impact of a sexual assault. Finally, each county varies in which parts of

the fees and how much of the fees are waived. Some counties will temporarily waive the costs to give the petitioner more time to get funds. In some counties, the court will grant a waiver of fees for either the cost of the filing fees or the cost of serving the petition on the respondent, but not both. In other counties, both the filing fees and cost of serving the petition on the respondent will be waived. This inconsistency could be remedied if the courts could, like in a domestic abuse restraining order, not impose a fee on a person seeking the restraining order.

In regard to the statute that allows the court to charge the respondent of the order with the fees, the decision of whether to make the respondent pay the fee is up to the judge or court commissioner, and there is no guarantee for that to happen. Although the request that the respondent pay the fees is made on the restraining order petition, the decision whether to order the respondent to pay is not made until the injunction hearing, requiring the victim to pay the fees up-front and be reimbursed later. Also, even if a court orders the respondent to pay the fees, and the respondent chooses not to pay, the petitioner may need to file another civil lawsuit to get the order enforced. This can be a lengthy and expensive process for the victim seeking a restraining order.

The most logical and just remedy to this situation is to make our laws on the fees involved with filing all restraining orders consistent with the laws regarding domestic abuse restraining orders. We support the changes as introduced by Rep. Berceau in AB 671--that persons petitioning for a harassment restraining order or injunction, or a child abuse or vulnerable adult restraining order no longer be required to pay fees. Instead, like in the domestic abuse restraining orders, we support the recommendation that the person who is the subject of the restraining order or injunction be required to pay the fees if he or she is convicted of violating that restraining order or injunction.

Thank you very much for your thoughtful consideration of this legislation. We urge your support for and passage of AB 671.

* Note: Most of the technical information provided in this testimony was taken from the "Legal Manual for Wisconsin Domestic Violence Programs," written by Tess Meuer, Wisconsin Coalition Against Domestic Violence Staff Attorney