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Staff

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regenerate

1 AN ACT *to renumber and amend* 813.12 (1) (a) (intro.), 1., 2., and 3. and 813.12  
2 (1) (a) 4.; *to amend* 106.50 (5m) (d), 767.11 (8) (b) 2., 767.11 (10) (e) 2., 767.24  
3 (1m) (b), 767.24 (1m) (c), 767.24 (1m) (o), 767.24 (2) (b) 2. c., 767.24 (5) (i), 813.12  
4 (2) (a), 813.12 (3) (a) (intro.), 813.12 (3) (a) 2., 813.12 (3) (c), 813.12 (4) (a) (intro.),  
5 813.12 (4) (a) 2., 813.12 (4) (a) 3., 813.12 (4) (c) 1., 813.12 (4) (c) 2., 814.61 (1) (e),  
6 814.70 (1), 814.70 (3) (intro.) and 895.73 (1) (a); and *to create* 813.12 (1) (ad),  
7 813.12 (1) (ag), 813.12 (1) (am) 5., 813.12 (1) (am) 6., 813.12 (1) (am) 7., 813.12  
8 (1) (bm), 813.12 (1) (cg), 813.12 (1) (cj), 813.12 (5) (d), 813.12 (5m), 813.12 (6) (d)  
9 and 813.12 (7) (c) of the statutes; **relating to:** domestic abuse restraining  
10 orders and injunctions.

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*Analysis by the Legislative Reference Bureau*

~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

insert  
and →

1           **SECTION 1.** 106.50 (5m) (d) of the statutes is amended to read:

2           106.50 (5m) (d) Nothing in this section requires that housing be made available  
3 to an individual whose tenancy would constitute a direct threat to the safety of other  
4 tenants or persons employed on the property or whose tenancy would result in  
5 substantial physical damage to the property of others, if the risk of direct threat or  
6 damage cannot be eliminated or sufficiently reduced through reasonable  
7 accommodations. A claim that an individual's tenancy poses a direct threat or a  
8 substantial risk of harm or damage must be evidenced by behavior by the individual  
9 ~~which that~~ caused harm or damage, ~~which that~~ directly threatened harm or damage,  
10 or ~~which that~~ caused a reasonable fear of harm or damage to other tenants, persons  
11 employed on the property, or the property. No claim that an individual's tenancy  
12 would constitute a direct threat to the safety of other persons or would result in  
13 substantial damage to property may be based on the fact that a tenant has been or  
14 may be the victim of domestic abuse, as defined in s. 813.12 (1) ~~(a)~~ (am).

15           **SECTION 2.** 767.11 (8) (b) 2. of the statutes is amended to read:

16           767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20  
17 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

18           **SECTION 3.** 767.11 (10) (e) 2. of the statutes is amended to read:

19           767.11 (10) (e) 2. There is evidence of interspousal battery as described under  
20 s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

21           **SECTION 4.** 767.24 (1m) (b) of the statutes is amended to read:

22           767.24 (1m) (b) Where the parent lives currently and where the parent intends  
23 to live during the next 2 years. If there is evidence that the other parent engaged in  
24 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
25 as defined in s. 813.12 (1) ~~(a)~~ (am), with respect to the parent providing the parenting

1 plan, the parent providing the parenting plan is not required to disclose the specific  
2 address but only a general description of where he or she currently lives and intends  
3 to live during the next 2 years.

4 **SECTION 5.** 767.24 (1m) (c) of the statutes is amended to read:

5 767.24 (1m) (c) Where the parent works and the hours of employment. If there  
6 is evidence that the other parent engaged in interspousal battery, as described under  
7 s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) ~~(a)~~ (am), with  
8 respect to the parent providing the parenting plan, the parent providing the  
9 parenting plan is not required to disclose the specific address but only a general  
10 description of where he or she works.

11 **SECTION 6.** 767.24 (1m) (o) of the statutes is amended to read:

12 767.24 (1m) (o) If there is evidence that either party engaged in interspousal  
13 battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined  
14 in s. 813.12 (1) ~~(a)~~ (am), with respect to the other party, how the child will be  
15 transferred between the parties for the exercise of physical placement to ensure the  
16 safety of the child and the parties.

17 **SECTION 7.** 767.24 (2) (b) 2. c. of the statutes is amended to read:

18 767.24 (2) (b) 2. c. The parties will not be able to cooperate in the future decision  
19 making required under an award of joint legal custody. In making this finding the  
20 court shall consider, along with any other pertinent items, any reasons offered by a  
21 party objecting to joint legal custody. Evidence that either party engaged in abuse,  
22 as defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of  
23 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
24 as defined in s. 813.12 (1) ~~(a)~~ (am), creates a rebuttable presumption that the parties  
25 will not be able to cooperate in the future decision making required.

1           **SECTION 8.** 767.24 (5) (i) of the statutes is amended to read:

2           767.24 (5) (i) Whether there is evidence of interspousal battery as described  
3 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

4           **SECTION 9.** 813.12 (1) (a) (intro.), 1., 2., and 3. of the statutes are renumbered  
5 813.12 (1) (am) (intro.), 1., 2., and 3., and 813.12 (1) (am) (intro.), as renumbered, is  
6 amended to read:

7           813.12 (1) (am) (intro.) “Domestic abuse” means any of the following engaged  
8 in by an adult family member or adult household member against another adult  
9 family member or adult household member, by an adult caregiver against an adult  
10 who is under the caregiver’s care, by an adult against his or her adult former spouse,  
11 by an adult against an adult with whom the individual has or had a dating  
12 relationship, or by an adult against an adult with whom the person has a child in  
13 common:

14           **SECTION 10.** 813.12 (1) (a) 4. of the statutes is renumbered 813.12 (1) (am) 8.  
15 and amended to read:

16           813.12 (1) (am) 8. A threat to engage in the conduct under subd. 1., 2. ~~or~~ 3., 5.,  
17 6., or 7.

18           **SECTION 11.** 813.12 (1) (ad) of the statutes is created to read:

19           813.12 (1) (ad) “Caregiver” means an individual who is a provider of in-home  
20 <sup>by</sup> ~~and~~ community care to an individual through regular and direct contact.

21           **SECTION 12.** 813.12 (1) (ag) of the statutes is created to read:

22           813.12 (1) (ag) “Dating relationship” means a social relationship between 2  
23 adult individuals that involves a romantic or intimate association. A court shall  
24 determine if a dating relationship existed by considering the length of the

1 relationship, the type of the relationship, and the frequency of interaction between  
2 the individuals involved in the relationship.

3 **SECTION 13.** 813.12 (1) (am) 5. of the statutes is created to read:

4 813.12 (1) (am) 5. A violation of s. 943.01, involving property that belongs to  
5 the individual ~~that is the subject of the abusive behavior~~ <sup>the</sup>

6 **SECTION 14.** 813.12 (1) (am) 6. of the statutes is created to read:

7 813.12 (1) (am) 6. A violation of s. 951.02, involving an animal that belongs to  
8 the individual ~~that is the subject of the abusive behavior~~

9 **SECTION 15.** 813.12 (1) (am) 7. of the statutes is created to read:

10 813.12 (1) (am) 7. Financial exploitation.

11 **SECTION 16.** 813.12 (1) (bm) of the statutes is created to read:

12 813.12 (1) (bm) "Financial exploitation" means any of the following:

13 1. Obtaining an individual's money or property by deceiving or enticing the  
14 individual.

15 2. Forcing, compelling, or coercing an individual to give, sell at less than fair  
16 market value, or in other ways convey, money or property against the individual's  
17 will or without the individual's informed consent.

18 3. Taking, carrying away, using, transferring, concealing, or retaining  
19 possession of an individual's money or property without the individual's informed  
20 consent.

21 **SECTION 17.** 813.12 (1) (cg) of the statutes is created to read:

22 813.12 (1) (cg) "Reasonable grounds" means more likely than not that a specific  
23 event has occurred or will occur.

24 **SECTION 18.** 813.12 (1) (cj) of the statutes is created to read:

1           813.12 (1) (cj) “Regular and direct contact” means face-to-face physical  
2 proximity to an individual that is planned, scheduled, expected, or periodic.

3           **SECTION 19.** 813.12 (2) (a) of the statutes is amended to read:

4           813.12 (2) (a) No action under this section may be commenced by complaint and  
5 summons. An action under this section may be commenced only by a petition  
6 described under sub. (5) (a). The action commences with service of the petition upon  
7 the respondent if a copy of the petition is filed before service or promptly after service.  
8 If the judge or family court commissioner extends the time for a hearing under sub.  
9 (3) (c) and the petitioner files an affidavit with the court stating that personal service  
10 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful  
11 because the respondent is avoiding service by concealment or otherwise, the judge  
12 or family court commissioner shall inform the petitioner that he or she may serve the  
13 respondent by publication of a summary of the petition as a class 1 notice, under ch.  
14 985, and by mailing or sending a facsimile if the respondent’s post-office address or  
15 facsimile number is known or can with due diligence be ascertained. The mailing or  
16 sending of a facsimile may be omitted if the post-office address <sup>or facsimile number</sup> cannot be ascertained  
17 with due diligence. A summary of the petition published as a class 1 notice shall  
18 include the name of the respondent and of the petitioner, notice of the temporary  
19 restraining order, and notice of the date, time, and place of the hearing regarding the  
20 injunction.

21           **SECTION 20.** 813.12 (3) (a) (intro.) of the statutes is amended to read:

22           813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a  
23 temporary restraining order ordering the respondent to refrain from committing acts  
24 of domestic abuse against the petitioner, to avoid the petitioner’s residence, except  
25 as provided in par. (am), or any premises other location temporarily occupied by the

1 petitioner or both, or to avoid contacting or causing any person other than a party's  
2 attorney or a law enforcement officer to contact the petitioner unless the petitioner  
3 consents in writing, or any combination of these remedies requested in the petition,  
4 or any other appropriate remedy not inconsistent with the remedies requested in the  
5 petition, if all of the following occur:

6 **SECTION 21.** 813.12 (3) (a) 2. of the statutes is amended to read:

7 813.12 (3) (a) 2. The judge or family court commissioner finds reasonable  
8 grounds to believe that the respondent has engaged in, or based on prior conduct of  
9 the petitioner and the respondent may engage in, domestic abuse of the petitioner.

10 (aj) In determining whether to issue a temporary restraining order, the judge  
11 or family court commissioner shall consider the potential danger posed to the  
12 petitioner and the pattern of abusive conduct of the respondent but may not base his  
13 or her decision solely on the length of time since the last domestic abuse or the length  
14 of time since the relationship ended. The judge or family court commissioner may  
15 grant only the remedies requested or approved by the petitioner. The judge or family  
16 court commissioner may not dismiss or deny granting a temporary restraining order  
17 because of the existence of a pending action or of any other court order that bars  
18 contact between the parties, nor due to the necessity of verifying the terms of an  
19 existing court order.

20 **SECTION 22.** 813.12 (3) (c) of the statutes is amended to read:

21 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held  
22 on issuance of an injunction under sub. (4). The temporary restraining order is not  
23 voided if the respondent is admitted into a dwelling that the order directs him or her  
24 to avoid. A judge or family court commissioner shall hold a hearing on issuance of  
25 an injunction within 7 14 days after the temporary restraining order is issued, unless

1 the time is extended upon the written consent of the parties or extended once for 14  
2 days upon a finding that the respondent has not been served with a copy of the  
3 temporary restraining order although the petitioner has exercised due diligence.

4 **SECTION 23.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

5 813.12 (4) (a) (intro.) A judge or family court commissioner may grant an  
6 injunction ordering the respondent to refrain from committing acts of domestic abuse  
7 against the petitioner, to avoid the petitioner's residence, except as provided in par.  
8 (am), or any premises other location temporarily occupied by the petitioner or both,  
9 or to avoid contacting or causing any person other than a party's attorney or a law  
10 enforcement officer to contact the petitioner unless the petitioner consents to that  
11 contact in writing, or any combination of these remedies requested in the petition,  
12 or any other appropriate remedy not inconsistent with the remedies requested in the  
13 petition, if all of the following occur:

14 **SECTION 24.** 813.12 (4) (a) 2. of the statutes is amended to read:

15 813.12 (4) (a) 2. The petitioner serves upon the respondent a copy or summary  
16 of the petition and notice of the time for hearing on the issuance of the injunction,  
17 or the respondent serves upon the petitioner notice of the time for hearing on the  
18 issuance of the injunction.

19 **SECTION 25.** 813.12 (4) (a) 3. of the statutes is amended to read:

20 813.12 (4) (a) 3. After hearing, the judge or family court commissioner finds  
21 reasonable grounds to believe that the respondent has engaged in, or based upon  
22 prior conduct of the petitioner and the respondent may engage in, domestic abuse of  
23 the petitioner.

24 (aj) In determining whether to issue an injunction, the judge or family court  
25 commissioner shall consider the potential danger posed to the petitioner and the



1 pattern of abusive conduct of the respondent but may not base his or her decision  
2 solely on the length of time since the last domestic abuse or the length of time since  
3 the relationship ended. The judge or family court commissioner may grant only the  
4 remedies requested by the petitioner. The judge or family court commissioner may  
5 not dismiss or deny granting an injunction because of the existence of a pending  
6 action or of any other court order that bars contact between the parties, nor due to  
7 the necessity of verifying the terms of an existing court order.

8 **SECTION 26.** 813.12 (4) (c) 1. of the statutes is amended to read:

9 813.12 (4) (c) 1. An injunction under this subsection is effective according to its  
10 terms, for the period of time that the petitioner requests, but not more than 24 years.  
11 An injunction granted under this subsection is not voided if the petitioner allows or  
12 initiates contact with the respondent or by the admittance of the respondent into a  
13 dwelling that the injunction directs him or her to avoid.

14 **SECTION 27.** 813.12 (4) (c) 2. of the statutes is amended to read:

15 813.12 (4) (c) 2. When an injunction granted for less than 24 years expires, the  
16 court shall extend the injunction if the petitioner states that an extension is  
17 necessary to protect him or her. This extension shall remain in effect until 24 years  
18 after the date the court first entered the injunction.

19 **SECTION 28.** 813.12 (5) (d) of the statutes is created to read:

20 813.12 (5) (d) A petition may be prepared and filed by the person who alleges  
21 that he or she has been the subject of domestic abuse or by the guardian, as defined  
22 in s. 880.01 (3), of an incompetent individual, as defined in s. 880.01 (4), who has been  
23 the subject of domestic abuse.

24 **SECTION 29.** 813.12 (5m) of the statutes is created to read:

1           813.12 **(5m)** CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)  
2 and the court order under sub. (3) or (4) shall not disclose the address of the alleged  
3 victim.

4           **SECTION 30.** 813.12 (6) (d) of the statutes is created to read:

5           813.12 **(6)** (d) The issuance of an order under s. 813.12 (3) or (4) is enforceable  
6 despite the existence of any other criminal or civil order restricting or prohibiting  
7 contact.

8           **SECTION 31.** 813.12 (7) (c) of the statutes is created to read:

9           813.12 **(7)** (c) A respondent who does not appear at a hearing at which the court  
10 orders an injunction under s. 813.12 (4) but who has been served with a copy of the  
11 petition and notice of the time for hearing under s. 813.12 (3) has constructive  
12 knowledge of the existence of the injunction and shall be arrested for violation of the  
13 injunction regardless of whether he or she has been served with a copy of the  
14 injunction.

15           **SECTION 32.** 814.61 (1) (e) of the statutes is amended to read:

16           814.61 **(1)** (e) No fee charged under this subsection in any action commenced  
17 under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.  
18 813.122, 813.123, or 813.125 if the petition alleges conduct that is the same as or  
19 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~  
20 (am) 1. to ~~4.~~ 8. If no fee is collected under this paragraph, the fee charged under this  
21 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall  
22 be collected from the respondent under s. 813.122, 813.123, or 813.125 if he or she  
23 is convicted of violating a temporary restraining order or injunction issued under s.  
24 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).

25           **SECTION 33.** 814.70 (1) of the statutes is amended to read:

1           814.70 (1) SERVICE OF PROCESS. For each service or attempted service of a  
2 summons or any other process for commencement of an action, a writ, an order of  
3 injunction, a subpoena, or any other order, \$12 for each defendant or person. If there  
4 is more than one defendant or person to be served at a given address, \$6 for each  
5 additional defendant or person. No fee charged under this subsection in any action  
6 commenced under s. 813.12, 813.122, or 813.123 may be collected from a petitioner  
7 under s. 813.12, 813.122, or 813.123. The fee charged under this subsection in any  
8 action commenced under s. 813.12, 813.122, 813.123, or 813.125 shall be collected  
9 from the respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of  
10 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),  
11 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4). No fee charged under this  
12 subsection in any action commenced under s. 813.125 may be collected from a  
13 petitioner under s. 813.125 if the petition alleges conduct that is the same as or  
14 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (a)  
15 (am) 1. to ~~4~~ 8. If no fee is collected under this subsection from a petitioner under  
16 s. 813.125, the fee charged under this subsection in any action commenced under s.  
17 813.125 shall be collected from the respondent under s. 813.125 if he or she is  
18 convicted of violating a temporary restraining order or injunction issued under s.  
19 813.125 (3) or (4).

20           **SECTION 34.** 814.70 (3) (intro.) of the statutes is amended to read:

21           814.70 (3) (intro.) For travel in serving any summons, writ or other process,  
22 except criminal warrants, and except that a fee under this subsection in any action  
23 commenced under s. 813.12, 813.122, or 813.123 may not be collected from a  
24 petitioner but shall be collected from the respondent if he or she is convicted of  
25 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),

1 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4), and except that a fee under  
2 this subsection in any action commenced under s. 813.125 may not be collected from  
3 a petitioner if the petition alleges conduct that is the same as or similar to conduct  
4 that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~ (am) 1. to ~~4~~ 8, but  
5 shall be collected from the respondent if he or she is convicted of violating a  
6 temporary restraining order or injunction issued under s. 813.125 (3) or (4):

7 **SECTION 35.** 895.73 (1) (a) of the statutes is amended to read:

8 895.73 (1) (a) "Abusive conduct" means domestic abuse, as defined under s.  
9 46.95 (1) (a), 813.12 (1) ~~(a)~~ (am), or 968.075 (1) (a), harassment, as defined under s.  
10 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under  
11 s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.  
12 948.02 to 948.11.

13 **SECTION 36. Initial applicability.**

14 (1) This act first applies to actions commenced on the effective date of this  
15 subsection.

16 (END)

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3191/lins  
RPN:hmh:pg

Ings Anl

Under current law, "domestic abuse" for purposes of obtaining an injunction, is defined as certain types of behavior engaged in by an adult against another adult if the two adults are involved in one of the following relationships:

1. Are members of the same family.
2. Are members of the same household.
3. Are former spouses.
4. Have a child in common.

This bill expands the types of relationships that adults may be in for purposes of domestic abuse injunctions to include an adult who is being cared for by another adult and adults who have a dating relationship. The bill defines "dating relationship" as a social relationship between two adults that involves a romantic or intimate association, and requires the court to consider the length and type of the relationship and the frequency of the interaction between the parties when determining if a dating relationship exists.

Currently, the types of behavior that are considered domestic abuse include sexual assault, intentional infliction of pain or injury, intentional impairment of physical condition, and the threat to commit one of those acts. This bill expands the types of behavior that are considered domestic abuse to include destruction of the property of the other person, mistreatment of the other person, and financial exploitation of the other person. Financial exploitation includes the taking or concealing of property or money belonging to the other person and the forcing of the other person to sell or convey property at less than face value.

Under current law, a court action is started by petitioning the court for a temporary restraining order, then the petitioner serves the other party, the court schedules a hearing and after determining the merits, the court issues a permanent injunction. This bill allows the guardian of an incompetent individual to file the petition for a domestic abuse order on behalf of the incompetent individual. If the petitioner is unable to serve the respondent personally with the petition, currently the petitioner may publish the petition and mail a copy of the petition to the respondent. The bill replaces the requirement to publish the petition when personal service is impossible with a requirement to publish a summary of the petition, which includes the name of the petitioner and respondent and the date, time, and place of the hearing regarding the requested injunction. The bill also allows the petitioner to send the summary of the petition by facsimile or mail.

Currently, a hearing on the request to issue an injunction must be held within seven days after the temporary restraining order is issued, unless the hearing is extended once for 14 days to allow the petitioner more time to serve the respondent or is extended for a period of time agreed to by the parties in writing. This bill changes the requirement to hold the hearing within seven days after the issuance of the temporary restraining order to 14 days. Under current law, a domestic abuse injunction is issued for the period requested by the petitioner, but not more than two years and be extended for an additional period up to the two-year maximum if the

threat

also

The

to the respondent

can

after that order is issued.

extension is necessary to protect the petitioner. This bill extends the maximum period to four years.

The bill prohibits the inclusion of the petitioner's address in the petition, temporary restraining order, or injunction.

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

**Nelson, Robert P.**

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**From:** Patti Seger [pattis@inxpress.net]  
**Sent:** Monday, December 10, 2001 1:26 PM  
**To:** Nelson, Robert P.  
**Subject:** restraining orders

Hi Robert,

Hope you are well. Undoubtedly Katie from Sen. Burke's office has gotten back to you about the changes to dating relationships. After our meeting last week, I promised to send you the sample language from other states...and just found the note to myself to do that right now. So, a little late but....still made it!

When you are done w/ that particular language, would you please share the dating relationship definition w/ Mike Dsida? He is working on a different bill that also has that definition. Thanks much!

By the way, if Katie didn't get back to you about the changes...let me know that too!  
Patti Seger

12/10/2001

## Sample of Various State's Dating Relationship Language

### Minnesota Statute 518B.01

Subdivision 1. Short title. This section may be cited as the domestic abuse act.

Subd.2. Definitions. As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means the following, if committed against a family or household member by a family or household member:

- (1) physical harm, bodily injury, or assault;
- (2) the infliction of fear of imminent physical harm, bodily injury or assault; or
- (3) terroristic threats, within the meaning of section 609,713, subdivision 1, or criminal sexual conduct, within the meaning of section 609.342, 609.343, 609.344, or 609.345.

(b) "Family or household members" means:

- (1) spouses and former spouses;
- (2) parents and children;
- (3) persons related by blood;
- (4) persons who are presently residing together or who have resided together in the past;
- (5) persons who have a child in common regardless of whether they have been married or have lived together at any time.

(6) a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time;

**(7) persons involved in a significant romantic or sexual relationship.**

Issuance of an order for protection of the ground in clause (6) does not affect a determination of paternity under sections 257.51 to 257.74. **In determining whether persons are or have been involved in a significant romantic or sexual relationship under clause (7), the court shall consider the length of time of the relationship; type of relationship; frequency of interaction between the parties; and, if the relationship has terminated, length of time since the termination.**

### Idaho Statute 39-6303

Definitions.

(1) "Domestic violence" means the physical injury, sexual abuse or forced imprisonment or threat thereof to a family or household member, or of a minor child by a person with whom the minor child has, had or is having a dating relationship.

**(2) "Dating relationship," for the purposes of this chapter, is defined as a social relationship of a romantic nature. Factors that the court may consider in making this determination include**

- (a) The nature of the relationship;**
- (b) The length of time the relationship has existed;**
- (c) The frequency of interaction between the parties; and**
- (d) The time since termination of the relationship, if applicable.**

(3) "Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who reside or have resided together, and persons who have a child in common regardless of whether they have been married or have lived together at any time.

(3) "Family dwelling" is any premises in which the petitioner resides.

(4) "Judicial day" means any day upon which court business may be transacted as provided in section 1-1606 and 1-1607, Idaho Code.

(5) "Protection order" means any order issued for the purpose of preventing violent or threatening acts or acts of harassment against, or contact or communication with, or physical proximity to, another person where the order was issued:

- (a) Pursuant to this chapter;
- (b) In another Jurisdiction pursuant to a provision similar to section 39-6306, Idaho Code; or
- (c) In any criminal or civil action, as a temporary or final order (other than a support or child custody order), and where the order was issued in response to a criminal complaint, petition or motion filed by or on behalf of a person seeking protection, and issued after giving notice and an opportunity to respond to



the person being restrained.

## Massachusetts Statute 209A s 1

### Definitions.

As used in this chapter the following words shall have the following meanings: "Abuse", the occurrence of one or more of the following acts between family or household members:

- a. attempting to cause or causing physical harm;
- b. placing another in fear of imminent serious physical harm;
- c. causing another to engage involuntarily in sexual relations by force, threat or duress. "Court", the superior, probate and family, district or Boston municipal court departments of the trial court, except when the petitioner is in a dating relationship when "Court" shall mean district, probate, or Boston municipal courts. "Family or household members", persons who:
  - a. are or were married to one another;
  - b. are or were residing together in the same household;
  - c. are or were related by blood or marriage;
  - d. having a child in common regardless or whether they have ever married or lived together; or
  - e. are or have been in a substantive dating or engagement relationship, which shall be adjudged by district, probate or Boston municipal courts consideration of the following factors:
    1. the length of time of the relationship;
    2. the type of relationship;
    3. the frequency of interaction between the parties; and

**if the relationship has been terminated by either person, the length of time elapsed since the termination of the relationship.** "Law officer", any officer authorized to serve criminal process. "Protection order issued by another jurisdiction", any injunction or other order issued by a court of another state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia, or tribal court that is issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to another person, including temporary and final orders issued by civil and criminal courts filed by or on behalf of a person seeking protection. "Vacate order", court order to leave and remain away from a premises and surrendering forthwith any keys to said premises to the plaintiff. The defendant shall not damage any of the plaintiff's belongings or those of any other occupant and shall not shut off or cause to be shut off any utilities or mail delivery to the plaintiff. In the case where the premises designated in the vacate order is a residence, so long as the plaintiff is living at said residence, the defendant shall not interfere in any way with the plaintiff's right to possess such residence, except by order or judgment of a court of competent jurisdiction pursuant to appropriate civil eviction proceedings, a petition to partition real estate, or a proceeding to divide marital property. A vacate order may include in its scope a household, a multiple family dwelling and the plaintiff's work place. When issuing an order to vacate the plaintiff's work place, the presiding justice must consider whether the plaintiff and defendant work in the same location or for the same employer.

## Hawaii Statute 586-1

### Definitions.

As used in this chapter: "**Dating relationship**" means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context. "Domestic abuse" means:

1. Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, assault, extreme psychological abuse or malicious property damage between family or household members; or
2. Any act which would constitute an offense under section 709-906, or under part V or VI of chapter 707 committed against a minor family or household member by an adult family or household member. "Extreme psychological abuse" means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the

individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress. "Family and household members" means spouses or reciprocal beneficiaries, former spouses or former reciprocal beneficiaries, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship. "Malicious property damage: means an intentional or knowing damage to the property of another, without his consent, with an intent to thereby cause emotional distress.

### **Michigan Statute 600.2950**

3. Personal protection order; restraining or enjoining spouse, former spouse, individual with child in common, **individual in dating relationship**, or person residing or having resided in same household from certain contact; respondent required to carry concealed weapon; omitting address of residence from documents; issuance, contents, effectiveness, duration, and service of personal protection order; entering order into L.E.I.N.; notice; failure to comply with order; false statement to court; enforcement; minor; definitions.

By commencing an independent action to obtain relief under this section or by joining a claim to an action, or by filing a motion in an action in which the petitioner and the individual to be restrained or enjoined are parties, an individual may petition the family division of circuit court to enter a personal protection order to restrain or enjoin a spouse, a former spouse, an individual with whom he or she has had a child in common, or an individual residing or having resided in the same household as the victim from doing 1 or more of the following:

- a. Entering onto premises.
- b. Assaulting, attacking, beating, molesting, or wounding a named individual.
- c. Threatening to kill or physically injure a named individual.
- d. Removing minor children from the individual having legal custody of the children, except as otherwise authorized by a custody or parenting time order issued by a court of contempt jurisdiction.
- e. Purchasing or possessing a firearm.
- f. Interfering with petitioner's efforts to remove petitioner's children or personal property from premises that are solely owned or leased by the individual to be restrained or enjoined.
- g. Interfering with petitioner at petitioner's place of employment or engaging in conduct that impairs petitioner's employment relationship or environment.
- h. Having access to information in records concerning a minor child of both petitioner and respondent that will inform respondent about the address and telephone number of petitioner and petitioner's minor child or about petitioner's employment address.
- i. Engaging in conduct that is prohibited under section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.
- j. Any other specific act or conduct that imposes upon or interferes with personal liberty or that causes a reasonable apprehension of violence.

As used in this section:

**"Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.**

### **California Statute PENAL s 13700**

As used in this title:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another.

(b) "Domestic Violence" means abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, or a person with whom the suspect has had a child or **is having or has had a dating or engagement relationship**. For purposes of this subdivision, "cohabitant" means two unrelated adult persons living together for a substantial period of time, resulting in

some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to, (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

### Alabama Statute 15-10-3

Arrest without warrant - When and for what allowed; definitions; written report of family violence regardless of arrest.

d. An officer may arrest any person without a warrant, on any day and at any time in any of the following instances:

1. If a public offense has been committed or a breach of the peace threatened in the presence of the officer.
2. When a felony has been committed, though not in the presence of the officer, by the person arrested;
3. When a felony has been committed and the officer has reasonable cause to believe that the person arrested committed the felony.
4. When the officer has reasonable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been committed.
5. When a charge has been made, upon reasonable cause, that the person arrested has committed a felony.
6. When the officer has actual knowledge that a warrant for the person's arrest for the commission of a felony or misdemeanor has been issued, provided the warrant was issued in accordance with this chapter. However, upon request the officer shall show the warrant to the arrested person as soon as possible. If the officer does not have the warrant in his or her possession at the time of arrest the officer shall then inform the defendant of the offense charged and of the fact that a warrant has been issued.
7. When the officer has reasonable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order issued by a court of competent jurisdiction.
8. When an offense involves domestic violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.

d. For the purpose of this section, the following terms have the following meanings:

1. Abuse. Any offense under Sections 13A-6-60 to 13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4, inclusive.
2. Assault. Any offense under Sections 13A-6-20 to 13A-6-25, inclusive.
3. Family, household, or **dating or engagement relationship members**. Includes a spouse, former spouse, parent, child, or any other person related by marriage or common law marriage, a person with whom the victim has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship.
4. Domestic violence. Any incident resulting in the abuse, assault, harassment, or the attempt or threats thereof, between family, household, or dating or engagement relationship members.
5. Harassment. Any offense under Section 13A-11-8.

e. When a law enforcement officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.

### Guam Statute T. 9, s. 30.10

As used in this Chapter:

- f. Family violence means the occurrence of one (1) or more of the following acts by a family or household member, but does not include acts of self-defense or defense of others: 1. Attempting to cause or causing bodily injury to another family or household member. 2. Placing a family or household member in fear of bodily injury.

*haha  
AmH*

- g. Family or household members include: 1. Adults or minors who are current or former spouses; 2. Adults or minors who live together or who have lived together; 3. **Adults or minors who are dating or who have dated;** 4. **Adults or minors who are engaged in or who have engaged in a sexual relationship.** 5. Adults or minors who are related by blood or adoption to the fourth degree of affinity; 6. Adults or minors who are related or formerly related by marriage; 7. Persons who have a child in common; and 8. Minor children of a person in a relationship described in paragraphs (1) through (7) above.
- h. Bodily injury as used in this Chapter. has the same meaning as provided in subsection (b) of s. 16.10 of this title;
- i. Attempt as used in this Chapter, has the same meaning as that provided in s. 13.10 of this title;
- j. Peace officer means any person so defined in 8 GCA s. 5.55;
- k. Victim means any natural person against whom a crime, as defined under the laws of Guam, has been committed or attempted to be committed;
- l. Witness means any natural person, (i) having knowledge of the existence or nonexistence of facts relating to any crime, or (ii) whose declaration under oath is received or has been received as evidence for any purpose, or (iii) who has reported any crime to any peace officer, or (iv) who has been served with a subpoena issued under the authority of any court in Guam, or (iv) [sic] who would be believed by any reasonable person to be an individual described in subparagraphs (i) through (iv), above, inclusive;
- m. Prosecuting attorney as used in this Chapter means the Attorney General of Guam and those persons employed by the Attorney General's office specifically designated by the Attorney General.

**Nelson, Robert P.**

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**From:** Patti Seger [pattis@inxpress.net]  
**Sent:** Tuesday, December 11, 2001 9:31 AM  
**To:** Nelson, Robert P.  
**Subject:** Re: restraining orders

I'll remind her to call you and let you know the outcome of our meeting on the dating relationship language. This is what it would theoretically look like...we agreed to add 2 sentences (the last 2...they are in bold).

"Dating relationship" means a relationship between two adults --

- A. who are or have been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on consideration of the following factors:
  - i. the length of the relationship;
  - ii. the type of the relationship; and
  - iii. the frequency of interaction between the persons involved in the relationship
  - iv. **and, if the relationship has terminated, length of time since the termination.**

Also there will be an additional sentence such as :

**This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.**

----- Original Message -----

**From:** Nelson, Robert P.  
**To:** 'Patti Seger'  
**Sent:** Monday, December 10, 2001 3:58 PM  
**Subject:** RE: restraining orders

I have not had any conversation with Katie about the dating relationship language.

-----Original Message-----

**From:** Patti Seger [mailto:pattis@inxpress.net]  
**Sent:** Monday, December 10, 2001 1:26 PM  
**To:** Nelson, Robert P.  
**Subject:** restraining orders

Hi Robert,

Hope you are well. Undoubtedly Katie from Sen. Burke's office has gotten back to you about the changes to dating relationships. After our meeting last week, I promised to send you the sample language from other states...and just found the note to myself to do that right now. So, a little late but....still made it!

When you are done w/ that particular language, would you please share the dating relationship definition w/ Mike Dsida? He is working on a different bill that also has that definition. Thanks much!

By the way, if Katie didn't get back to you about the changes...let me know that too!  
Patti Seger

12/11/2001



State of Wisconsin  
2001 - 2002 LEGISLATURE

2  
LRB-3191/1  
RPN:hmh:rs  
L  
stay

soon

2001 BILL

regen

1 AN ACT *to renumber and amend* 813.12 (1) (a) (intro.), 1., 2., and 3. and 813.12  
2 (1) (a) 4.; *to amend* 106.50 (5m) (d), 767.11 (8) (b) 2., 767.11 (10) (e) 2., 767.24  
3 (1m) (b), 767.24 (1m) (c), 767.24 (1m) (o), 767.24 (2) (b) 2. c., 767.24 (5) (i), 813.12  
4 (2) (a), 813.12 (3) (a) (intro.), 813.12 (3) (a) 2., 813.12 (3) (c), 813.12 (4) (a) (intro.),  
5 813.12 (4) (a) 2., 813.12 (4) (a) 3., 813.12 (4) (c) 1., 813.12 (4) (c) 2., 814.61 (1) (e),  
6 814.70 (1), 814.70 (3) (intro.) and 895.73 (1) (a); and *to create* 813.12 (1) (ad),  
7 813.12 (1) (ag), 813.12 (1) (am) 5., 813.12 (1) (am) 6., 813.12 (1) (am) 7., 813.12  
8 (1) (bm), 813.12 (1) (cg), 813.12 (1) (cj), 813.12 (5) (d), 813.12 (5m), 813.12 (6) (d)  
9 and 813.12 (7) (c) of the statutes; **relating to:** domestic abuse restraining  
10 orders and injunctions.

**Analysis by the Legislative Reference Bureau**

Under current law, "domestic abuse" for purposes of obtaining an injunction, is defined as certain types of behavior engaged in by an adult against another adult if the two adults are involved in one of the following relationships:

1. Are members of the same family.
2. Are members of the same household.

**BILL**

- 3. Are former spouses.
- 4. Have a child in common.

*The bill provides that a dating relationship is not a casual relationship or ordinary fraternization between two individuals.*

This bill expands the types of relationships that adults may be in for purposes of domestic abuse injunctions to include ~~an adult who is being cared for by another adult and~~ adults who have a dating relationship. The bill defines a "dating relationship" as a social relationship between two adults that involves a romantic or intimate association, and requires the court to consider the length and type of the relationship and the frequency of the interaction between the parties when determining if a dating relationship exists.

Currently, the types of behavior that are considered domestic abuse include sexual assault, intentional infliction of pain or injury, intentional impairment of physical condition, and the threat to commit one of those acts. This bill expands the types of behavior that are considered domestic abuse to include destruction of property of the other person, <sup>and</sup> mistreatment of an animal belonging to the other person, and financial exploitation of the other person. Financial exploitation includes the taking or concealing of property or money belonging to the other person and the forcing of the other person to sell or convey property at less than face value.

Under current law, a court action is started by petitioning the court for a temporary restraining order, then the petitioner serves the other party, the court schedules a hearing and after determining the merits, the court issues a permanent injunction. If the petitioner is unable to serve the respondent personally with the petition, currently the petitioner may publish the petition and mail a copy of the petition to the respondent. The bill replaces the requirement to publish the petition when personal service is impossible with a requirement to publish a summary of the petition, which includes the the name of the petitioner and respondent and the date, time, and place of the hearing regarding the requested injunction. The bill allows the petitioner to send the summary of the petition to the respondent by facsimile or mail. The bill also allows the guardian of an incompetent individual to file the petition for a domestic abuse order on behalf of the incompetent individual.

Currently, a hearing on the request to issue an injunction must be held within seven days after the temporary restraining order is issued, unless the hearing is extended once for 14 days to allow the petitioner more time to serve the respondent or is extended for a period of time agreed to by the parties in writing. This bill changes the requirement to hold the hearing within seven days after the issuance of the temporary restraining order to 14 days after that order is issued. Under current law, a domestic abuse injunction is issued for the period requested by the petitioner, but not more than two years and can be extended for an additional period up to the two-year maximum if the extension is necessary to protect the petitioner. This bill extends the maximum period to four years.

The bill prohibits the inclusion of the petitioner's address in the petition, temporary restraining order, or injunction.

**BILL**

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

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

1           **SECTION 1.** 106.50 (5m) (d) of the statutes is amended to read:

2           106.50 (5m) (d) Nothing in this section requires that housing be made available  
3           to an individual whose tenancy would constitute a direct threat to the safety of other  
4           tenants or persons employed on the property or whose tenancy would result in  
5           substantial physical damage to the property of others, if the risk of direct threat or  
6           damage cannot be eliminated or sufficiently reduced through reasonable  
7           accommodations. A claim that an individual's tenancy poses a direct threat or a  
8           substantial risk of harm or damage must be evidenced by behavior by the individual  
9           ~~which that~~ caused harm or damage, ~~which that~~ directly threatened harm or damage,  
10          or ~~which that~~ caused a reasonable fear of harm or damage to other tenants, persons  
11          employed on the property, or the property. No claim that an individual's tenancy  
12          would constitute a direct threat to the safety of other persons or would result in  
13          substantial damage to property may be based on the fact that a tenant has been or  
14          may be the victim of domestic abuse, as defined in s. 813.12 (1) ~~(a)~~ (am).

15          **SECTION 2.** 767.11 (8) (b) 2. of the statutes is amended to read:

16          767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20  
17          (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

18          **SECTION 3.** 767.11 (10) (e) 2. of the statutes is amended to read:

19          767.11 (10) (e) 2. There is evidence of interspousal battery as described under  
20          s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

21          **SECTION 4.** 767.24 (1m) (b) of the statutes is amended to read:



**BILL**

1           767.24 (1m) (b) Where the parent lives currently and where the parent intends  
2 to live during the next 2 years. If there is evidence that the other parent engaged in  
3 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
4 as defined in s. 813.12 (1) (a) (am), with respect to the parent providing the parenting  
5 plan, the parent providing the parenting plan is not required to disclose the specific  
6 address but only a general description of where he or she currently lives and intends  
7 to live during the next 2 years.

8           **SECTION 5.** 767.24 (1m) (c) of the statutes is amended to read:

9           767.24 (1m) (c) Where the parent works and the hours of employment. If there  
10 is evidence that the other parent engaged in interspousal battery, as described under  
11 s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (a) (am), with  
12 respect to the parent providing the parenting plan, the parent providing the  
13 parenting plan is not required to disclose the specific address but only a general  
14 description of where he or she works.

15           **SECTION 6.** 767.24 (1m) (o) of the statutes is amended to read:

16           767.24 (1m) (o) If there is evidence that either party engaged in interspousal  
17 battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined  
18 in s. 813.12 (1) (a) (am), with respect to the other party, how the child will be  
19 transferred between the parties for the exercise of physical placement to ensure the  
20 safety of the child and the parties.

21           **SECTION 7.** 767.24 (2) (b) 2. c. of the statutes is amended to read:

22           767.24 (2) (b) 2. c. The parties will not be able to cooperate in the future decision  
23 making required under an award of joint legal custody. In making this finding the  
24 court shall consider, along with any other pertinent items, any reasons offered by a  
25 party objecting to joint legal custody. Evidence that either party engaged in abuse,

**BILL**

1 as defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of  
2 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
3 as defined in s. 813.12 (1) (a) (am), creates a rebuttable presumption that the parties  
4 will not be able to cooperate in the future decision making required.

5 **SECTION 8.** 767.24 (5) (i) of the statutes is amended to read:

6 767.24 (5) (i) Whether there is evidence of interspousal battery as described  
7 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (a) (am).

8 **SECTION 9.** 813.12 (1) (a) (intro.), 1., 2., and 3. of the statutes are renumbered  
9 813.12 (1) (am) (intro.), 1., 2., and 3., and 813.12 (1) (am) (intro.), as renumbered, is  
10 amended to read:

11 813.12 (1) (am) (intro.) “Domestic abuse” means any of the following engaged  
12 in by an adult family member or adult household member against another adult  
13 family member or adult household member, ~~by an adult caregiver against an adult~~  
14 ~~who is under the caregiver’s care~~, by an adult against his or her adult former spouse,  
15 by an adult against an adult with whom the individual has or had a dating  
16 relationship, or by an adult against an adult with whom the person has a child in  
17 common:

18 **SECTION 10.** 813.12 (1) (a) 4. of the statutes is renumbered 813.12 (1) (am) 8.  
19 and amended to read:

20 813.12 (1) (am) 8. A threat to engage in the conduct under subd. 1., 2. ~~or~~ 3., 5.,

21 <sup>or</sup> 6. ~~or~~.

22 **SECTION 11.** 813.12 (1) (ad) of the statutes is created to read:

23 813.12 (1) (ad) “Caregiver” means an individual who is a provider of in-home  
24 or community care to an individual through regular and direct contact.

25 **SECTION 12.** 813.12 (1) (ag) of the statutes is created to read:

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*insert*  
*6-2*

*[Handwritten scribble]*

1           813.12 (1) (ag) "Dating relationship" means a social relationship between 2  
2 adult individuals ~~that involves a~~ romantic or intimate association. A court shall  
3 determine if a dating relationship existed by considering the length of the  
4 relationship, the type of the relationship, and the frequency of the interaction  
5 between the <sup>adult</sup> individuals involved in the relationship.

6           **SECTION 13.** 813.12 (1) (am) 5. of the statutes is created to read:

7           813.12 (1) (am) 5. A violation of s. 943.01, involving property that belongs to  
8 the individual.

9           **SECTION 14.** 813.12 (1) (am) 6. of the statutes is created to read:

10          813.12 (1) (am) 6. A violation of s. 951.02, involving an animal that belongs to  
11 the individual.

12          **SECTION 15.** 813.12 (1) (am) 7. of the statutes is created to read:

13          813.12 (1) (am) 7. Financial exploitation.

14          **SECTION 16.** 813.12 (1) (bm) of the statutes is created to read:

15          813.12 (1) (bm) "Financial exploitation" means any of the following:

16           1. Obtaining an individual's money or property by deceiving or enticing the  
17 individual.

18           2. Forcing, compelling, or coercing an individual to give, sell at less than fair  
19 market value, or in other ways convey, money or property against the individual's  
20 will or without the individual's informed consent.

21           3. Taking, carrying away, using, transferring, concealing, or retaining  
22 possession of an individual's money or property without the individual's informed  
23 consent.

24          **SECTION 17.** 813.12 (1) (cg) of the statutes is created to read:

**BILL**

1           813.12 (1) (cg) "Reasonable grounds" means more likely than not that a specific  
2 event has occurred or will occur.

3           **SECTION 18.** 813.12 (1) (cj) of the statutes is created to read:

4           813.12 (1) (cj) ~~"Regular and direct contact"~~ means face-to-face physical  
5 ~~proximity to an individual that is planned, scheduled, expected, or periodic.~~

6           **SECTION 19.** 813.12 (2) (a) of the statutes is amended to read:

7           813.12 (2) (a) No action under this section may be commenced by complaint and  
8 summons. An action under this section may be commenced only by a petition  
9 described under sub. (5) (a). The action commences with service of the petition upon  
10 the respondent if a copy of the petition is filed before service or promptly after service.  
11 If the judge or family court commissioner extends the time for a hearing under sub.  
12 (3) (c) and the petitioner files an affidavit with the court stating that personal service  
13 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful  
14 because the respondent is avoiding service by concealment or otherwise, the judge  
15 or family court commissioner shall inform the petitioner that he or she may serve the  
16 respondent by publication of a summary of the petition as a class 1 notice, under ch.  
17 985, and by mailing or sending a facsimile if the respondent's post-office address or  
18 facsimile number is known or can with due diligence be ascertained. The mailing or  
19 sending of a facsimile may be omitted if the post-office address or facsimile number  
20 cannot be ascertained with due diligence. A summary of the petition published as  
21 a class 1 notice shall include the name of the respondent and of the petitioner, notice  
22 of the temporary restraining order, and notice of the date, time, and place of the  
23 hearing regarding the injunction.

24           **SECTION 20.** 813.12 (3) (a) (intro.) of the statutes is amended to read:

## BILL

1           813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a  
2 temporary restraining order ordering the respondent to refrain from committing acts  
3 of domestic abuse against the petitioner, to avoid the petitioner's residence, except  
4 as provided in par. (am), or any premises other location temporarily occupied by the  
5 petitioner or both, or to avoid contacting or causing any person other than a party's  
6 attorney or a law enforcement officer to contact the petitioner unless the petitioner  
7 consents in writing, or any combination of these remedies requested in the petition,  
8 or any other appropriate remedy not inconsistent with the remedies requested in the  
9 petition, if all of the following occur:

10           **SECTION 21.** 813.12 (3) (a) 2. of the statutes is amended to read:

11           813.12 (3) (a) 2. The judge or family court commissioner finds reasonable  
12 grounds to believe that the respondent has engaged in, or based on prior conduct of  
13 the petitioner and the respondent may engage in, domestic abuse of the petitioner.

14           (aj) In determining whether to issue a temporary restraining order, the judge  
15 or family court commissioner shall consider the potential danger posed to the  
16 petitioner and the pattern of abusive conduct of the respondent but may not base his  
17 or her decision solely on the length of time since the last domestic abuse or the length  
18 of time since the relationship ended. The judge or family court commissioner may  
19 grant only the remedies requested or approved by the petitioner. The judge or family  
20 court commissioner may not dismiss or deny granting a temporary restraining order  
21 because of the existence of a pending action or of any other court order that bars  
22 contact between the parties, nor due to the necessity of verifying the terms of an  
23 existing court order.

24           **SECTION 22.** 813.12 (3) (c) of the statutes is amended to read:

**BILL**

1           813.12 (3) (c) The temporary restraining order is in effect until a hearing is held  
2 on issuance of an injunction under sub. (4). The temporary restraining order is not  
3 voided if the respondent is admitted into a dwelling that the order directs him or her  
4 to avoid. A judge or family court commissioner shall hold a hearing on issuance of  
5 an injunction within ~~7~~ 14 days after the temporary restraining order is issued, unless  
6 the time is extended upon the written consent of the parties or extended once for 14  
7 days upon a finding that the respondent has not been served with a copy of the  
8 temporary restraining order although the petitioner has exercised due diligence.

9           **SECTION 23.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

10           813.12 (4) (a) (intro.) A judge or family court commissioner may grant an  
11 injunction ordering the respondent to refrain from committing acts of domestic abuse  
12 against the petitioner, to avoid the petitioner's residence, except as provided in par.  
13 (am), or any ~~premises~~ other location temporarily occupied by the petitioner or both,  
14 or to avoid contacting or causing any person other than a party's attorney or a law  
15 enforcement officer to contact the petitioner unless the petitioner consents to that  
16 contact in writing, or any combination of these remedies requested in the petition,  
17 or any other appropriate remedy not inconsistent with the remedies requested in the  
18 petition, if all of the following occur:

19           **SECTION 24.** 813.12 (4) (a) 2. of the statutes is amended to read:

20           813.12 (4) (a) 2. The petitioner serves upon the respondent a copy or summary  
21 of the petition and notice of the time for hearing on the issuance of the injunction,  
22 or the respondent serves upon the petitioner notice of the time for hearing on the  
23 issuance of the injunction.

24           **SECTION 25.** 813.12 (4) (a) 3. of the statutes is amended to read:

**BILL**

1           813.12 (4) (a) 3. After hearing, the judge or family court commissioner finds  
2 reasonable grounds to believe that the respondent has engaged in, or based upon  
3 prior conduct of the petitioner and the respondent may engage in, domestic abuse of  
4 the petitioner.

5           (a) In determining whether to issue an injunction, the judge or family court  
6 commissioner shall consider the potential danger posed to the petitioner and the  
7 pattern of abusive conduct of the respondent but may not base his or her decision  
8 solely on the length of time since the last domestic abuse or the length of time since  
9 the relationship ended. The judge or family court commissioner may grant only the  
10 remedies requested by the petitioner. The judge or family court commissioner may  
11 not dismiss or deny granting an injunction because of the existence of a pending  
12 action or of any other court order that bars contact between the parties, nor due to  
13 the necessity of verifying the terms of an existing court order.

14           **SECTION 26.** 813.12 (4) (c) 1. of the statutes is amended to read:

15           813.12 (4) (c) 1. An injunction under this subsection is effective according to its  
16 terms, for the period of time that the petitioner requests, but not more than 2 4 years.  
17 An injunction granted under this subsection is not voided if the petitioner allows or  
18 initiates contact with the respondent or by the admittance of the respondent into a  
19 dwelling that the injunction directs him or her to avoid.

20           **SECTION 27.** 813.12 (4) (c) 2. of the statutes is amended to read:

21           813.12 (4) (c) 2. When an injunction granted for less than 2 4 years expires, the  
22 court shall extend the injunction if the petitioner states that an extension is  
23 necessary to protect him or her. This extension shall remain in effect until 2 4 years  
24 after the date the court first entered the injunction.

25           **SECTION 28.** 813.12 (5) (d) of the statutes is created to read:

**BILL**

1           813.12 (5) (d) A petition may be prepared and filed by the person who alleges  
2           that he or she has been the subject of domestic abuse or by the guardian, as defined  
3           in s. 880.01 (3), of an incompetent individual, as defined in s. 880.01 (4), who has been  
4           the subject of domestic abuse.

5           **SECTION 29.** 813.12 (5m) of the statutes is created to read:

6           813.12 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)  
7           and the court order under sub. (3) or (4) shall not disclose the address of the alleged  
8           victim.

9           **SECTION 30.** 813.12 (6) (d) of the statutes is created to read:

10          813.12 (6) (d) The issuance of an order under s. 813.12 (3) or (4) is enforceable  
11          despite the existence of any other criminal or civil order restricting or prohibiting  
12          contact.

13          **SECTION 31.** 813.12 (7) (c) of the statutes is created to read:

14          813.12 (7) (c) A respondent who does not appear at a hearing at which the court  
15          orders an injunction under s. 813.12 (4) but who has been served with a copy of the  
16          petition and notice of the time for hearing under s. 813.12 (3) has constructive  
17          knowledge of the existence of the injunction and shall be arrested for violation of the  
18          injunction regardless of whether he or she has been served with a copy of the  
19          injunction.

20          **SECTION 32.** 814.61 (1) (e) of the statutes is amended to read:

21          814.61 (1) (e) No fee charged under this subsection in any action commenced  
22          under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.  
23          813.122, 813.123, or 813.125 if the petition alleges conduct that is the same as or  
24          similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (a)  
25          (am) 1. to ~~4. 8.~~ If no fee is collected under this paragraph, the fee charged under this



**BILL**

1 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall  
2 be collected from the respondent under s. 813.122, 813.123, or 813.125 if he or she  
3 is convicted of violating a temporary restraining order or injunction issued under s.  
4 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).

5 **SECTION 33.** 814.70 (1) of the statutes is amended to read:

6 814.70 (1) SERVICE OF PROCESS. For each service or attempted service of a  
7 summons or any other process for commencement of an action, a writ, an order of  
8 injunction, a subpoena, or any other order, \$12 for each defendant or person. If there  
9 is more than one defendant or person to be served at a given address, \$6 for each  
10 additional defendant or person. No fee charged under this subsection in any action  
11 commenced under s. 813.12, 813.122, or 813.123 may be collected from a petitioner  
12 under s. 813.12, 813.122, or 813.123. The fee charged under this subsection in any  
13 action commenced under s. 813.12, 813.122, 813.123, or 813.125 shall be collected  
14 from the respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of  
15 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),  
16 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4). No fee charged under this  
17 subsection in any action commenced under s. 813.125 may be collected from a  
18 petitioner under s. 813.125 if the petition alleges conduct that is the same as or  
19 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (a)  
20 (am) 1. to ~~4.~~ 8. If no fee is collected under this subsection from a petitioner under  
21 s. 813.125, the fee charged under this subsection in any action commenced under s.  
22 813.125 shall be collected from the respondent under s. 813.125 if he or she is  
23 convicted of violating a temporary restraining order or injunction issued under s.  
24 813.125 (3) or (4).

25 **SECTION 34.** 814.70 (3) (intro.) of the statutes is amended to read:



Nelson, Robert P.

**From:** Patti Seger [pattis@inxpress.net]  
**Sent:** Tuesday, December 11, 2001 9:31 AM  
**To:** Nelson, Robert P.  
**Subject:** Re: restraining orders

insert 6-2

I'll remind her to call you and let you know the outcome of our meeting on the dating relationship language. This is what it would theoretically look like...we agreed to add 2 sentences (the last 2...they are in bold).

"Dating relationship" means a relationship between two adults --

- A. who are or have been in a social relationship of a romantic or intimate nature with the victim; and
- B. where the existence of such a relationship shall be determined based on consideration of the following factors:
  - i. the length of the relationship;
  - ii. the type of the relationship; and
  - iii. the frequency of interaction between the persons involved in the relationship
  - iv. **and, if the relationship has terminated, length of time since the termination.**

Also there will be an additional sentence such as :

*"Dating relationship"*  
~~This term~~ does not include a casual relationship or an ordinary fraternization between 2 <sup>adults</sup> individuals in a business or social context.

----- Original Message -----

**From:** Nelson, Robert P.  
**To:** 'Patti Seger'  
**Sent:** Monday, December 10, 2001 3:58 PM  
**Subject:** RE: restraining orders

I have not had any conversation with Katie about the dating relationship language.

-----Original Message-----

**From:** Patti Seger [mailto:pattis@inxpress.net]  
**Sent:** Monday, December 10, 2001 1:26 PM  
**To:** Nelson, Robert P.  
**Subject:** restraining orders

Hi Robert,  
Hope you are well. Undoubtedly Katie from Sen. Burke's office has gotten back to you about the changes to dating relationships. After our meeting last week, I promised to send you the sample language from other states...and just found the note to myself to do that right now. So, a little late but....still made it!

When you are done w/ that particular language, would you please share the dating relationship definition w/ Mike Dsida? He is working on a different bill that also has that definition. Thanks much!

By the way, if Katie didn't get back to you about the changes...let me know that too!  
Patti Seger

**Nelson, Robert P.**

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**From:** Heringlake, Katherine  
**Sent:** Wednesday, January 02, 2002 12:05 PM  
**To:** Nelson, Robert P.  
**Subject:** RE: PDF

I am so sorry to do this to you, but after another discussion with the State bar and Patti, we'd like to put caregiver back in. We still want to leave out the financial exploitation component of course. Thanks for your continuing cooperation.  
Katy

-----Original Message-----

**From:** Nelson, Robert P.  
**Sent:** Friday, December 14, 2001 3:07 PM  
**To:** Heringlake, Katherine; 'pattis@inexpress.net'  
**Subject:** RE: PDF

<< File: 01-3191/2 >> Here is a copy of the draft. I do not know Cory Mason-s e-mail address.

-----Original Message-----

**From:** Heringlake, Katherine  
**Sent:** Friday, December 14, 2001 2:21 PM  
**To:** Nelson, Robert P.  
**Subject:** PDF

I got 3191/2, but could you send it to me electronically as well so I can forward it on to Patti and Cory Mason.  
Thanks,  
Katy Heringlake



*D-N*

**2001 BILL**

*Regenerate*

1 **AN ACT** *to renumber and amend* 813.12 (1) (a) (intro.), 1., 2., and 3. and 813.12  
2 (1) (a) 4.; *to amend* 106.50 (5m) (d), 767.11 (8) (b) 2., 767.11 (10) (e) 2., 767.24  
3 (1m) (b), 767.24 (1m) (c), 767.24 (1m) (o), 767.24 (2) (b) 2. c., 767.24 (5) (i), 813.12  
4 (2) (a), 813.12 (3) (a) (intro.), 813.12 (3) (a) 2., 813.12 (3) (c), 813.12 (4) (a) (intro.),  
5 813.12 (4) (a) 2., 813.12 (4) (a) 3., 813.12 (4) (c) 1., 813.12 (4) (c) 2., 814.61 (1) (e),  
6 814.70 (1), 814.70 (3) (intro.) and 895.73 (1) (a); and *to create* 813.12 (1) (ag),  
7 813.12 (1) (am) 5., 813.12 (1) (am) 6., 813.12 (1) (cg), 813.12 (5) (d), 813.12 (5m),  
8 813.12 (6) (d) and 813.12 (7) (c) of the statutes; **relating to:** domestic abuse  
9 restraining orders and injunctions.

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***Analysis by the Legislative Reference Bureau***

Under current law, "domestic abuse" for purposes of obtaining an injunction, is defined as certain types of behavior engaged in by an adult against another adult if the two adults are involved in one of the following relationships:

1. Are members of the same family.
2. Are members of the same household.
3. Are former spouses.
4. Have a child in common.

## BILL

*an adult who is being  
cared for by another adult and*

This bill expands the types of relationships that adults may be in for purposes of domestic abuse injunctions to include adults who have a dating relationship. The bill defines a "dating relationship" as a social relationship between two adults that involves a romantic or intimate association, and requires the court to consider the length and type of the relationship and the frequency of the interaction between the parties when determining if a dating relationship exists. The bill provides that a dating relationship is not a casual relationship or ordinary fraternization between two adult individuals.

Currently, the types of behavior that are considered domestic abuse include sexual assault, intentional infliction of pain or injury, intentional impairment of physical condition, and the threat to commit one of those acts. This bill expands the types of behavior that are considered domestic abuse to include destruction of property of the other person and mistreatment of an animal belonging to the other person.

Under current law, a court action is started by petitioning the court for a temporary restraining order, then the petitioner serves the other party, the court schedules a hearing and after determining the merits, the court issues a permanent injunction. If the petitioner is unable to serve the respondent personally with the petition, currently the petitioner may publish the petition and mail a copy of the petition to the respondent. The bill replaces the requirement to publish the petition when personal service is impossible with a requirement to publish a summary of the petition, which includes the name of the petitioner and respondent and the date, time, and place of the hearing regarding the requested injunction. The bill allows the petitioner to send the summary of the petition to the respondent by facsimile or mail. The bill also allows the guardian of an incompetent individual to file the petition for a domestic abuse order on behalf of the incompetent individual.

Currently, a hearing on the request to issue an injunction must be held within seven days after the temporary restraining order is issued, unless the hearing is extended once for 14 days to allow the petitioner more time to serve the respondent or is extended for a period of time agreed to by the parties in writing. This bill changes the requirement to hold the hearing within seven days after the issuance of the temporary restraining order to 14 days after that order is issued. Under current law, a domestic abuse injunction is issued for the period requested by the petitioner, but not more than two years and can be extended for an additional period up to the two-year maximum if the extension is necessary to protect the petitioner. This bill extends the maximum period to four years.

The bill prohibits the inclusion of the petitioner's address in the petition, temporary restraining order, or injunction.

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

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

**BILL**

1           **SECTION 1.** 106.50 (5m) (d) of the statutes is amended to read:

2           106.50 **(5m)** (d) Nothing in this section requires that housing be made available  
3 to an individual whose tenancy would constitute a direct threat to the safety of other  
4 tenants or persons employed on the property or whose tenancy would result in  
5 substantial physical damage to the property of others, if the risk of direct threat or  
6 damage cannot be eliminated or sufficiently reduced through reasonable  
7 accommodations. A claim that an individual's tenancy poses a direct threat or a  
8 substantial risk of harm or damage must be evidenced by behavior by the individual  
9 ~~which that caused harm or damage, which that directly threatened harm or damage,~~  
10 ~~or which that caused a reasonable fear of harm or damage to other tenants, persons~~  
11 ~~employed on the property, or the property. No claim that an individual's tenancy~~  
12 ~~would constitute a direct threat to the safety of other persons or would result in~~  
13 ~~substantial damage to property may be based on the fact that a tenant has been or~~  
14 ~~may be the victim of domestic abuse, as defined in s. 813.12 (1) (a) (am).~~

15           **SECTION 2.** 767.11 (8) (b) 2. of the statutes is amended to read:

16           767.11 **(8)** (b) 2. Interspousal battery as described under s. 940.19 or 940.20  
17 (1m) or domestic abuse as defined in s. 813.12 (1) (a) (am).

18           **SECTION 3.** 767.11 (10) (e) 2. of the statutes is amended to read:

19           767.11 **(10)** (e) 2. There is evidence of interspousal battery as described under  
20 s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (a) (am).

21           **SECTION 4.** 767.24 (1m) (b) of the statutes is amended to read:

22           767.24 **(1m)** (b) Where the parent lives currently and where the parent intends  
23 to live during the next 2 years. If there is evidence that the other parent engaged in  
24 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
25 as defined in s. 813.12 (1) (a) (am), with respect to the parent providing the parenting

**BILL**

1 plan, the parent providing the parenting plan is not required to disclose the specific  
2 address but only a general description of where he or she currently lives and intends  
3 to live during the next 2 years.

4 **SECTION 5.** 767.24 (1m) (c) of the statutes is amended to read:

5 767.24 (1m) (c) Where the parent works and the hours of employment. If there  
6 is evidence that the other parent engaged in interspousal battery, as described under  
7 s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (a) (am), with  
8 respect to the parent providing the parenting plan, the parent providing the  
9 parenting plan is not required to disclose the specific address but only a general  
10 description of where he or she works.

11 **SECTION 6.** 767.24 (1m) (o) of the statutes is amended to read:

12 767.24 (1m) (o) If there is evidence that either party engaged in interspousal  
13 battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined  
14 in s. 813.12 (1) (a) (am), with respect to the other party, how the child will be  
15 transferred between the parties for the exercise of physical placement to ensure the  
16 safety of the child and the parties.

17 **SECTION 7.** 767.24 (2) (b) 2. c. of the statutes is amended to read:

18 767.24 (2) (b) 2. c. The parties will not be able to cooperate in the future decision  
19 making required under an award of joint legal custody. In making this finding the  
20 court shall consider, along with any other pertinent items, any reasons offered by a  
21 party objecting to joint legal custody. Evidence that either party engaged in abuse,  
22 as defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of  
23 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
24 as defined in s. 813.12 (1) (a) (am), creates a rebuttable presumption that the parties  
25 will not be able to cooperate in the future decision making required.



**BILL**

1           **SECTION 8.** 767.24 (5) (i) of the statutes is amended to read:

2           767.24 (5) (i) Whether there is evidence of interspousal battery as described  
3 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

4           **SECTION 9.** 813.12 (1) (a) (intro.), 1., 2., and 3. of the statutes are renumbered  
5 813.12 (1) (am) (intro.), 1., 2., and 3., and 813.12 (1) (am) (intro.), as renumbered, is  
6 amended to read: *by an adult caregiver against an adult*  
*who is under the caregiver's care*

7           813.12 (1) (am) (intro.) "Domestic abuse" means any of the following engaged  
8 in by an adult family member or adult household member against another adult  
9 family member or adult household member, by an adult against his or her adult  
10 former spouse, by an adult against an adult with whom the individual has or had a  
11 dating relationship, or by an adult against an adult with whom the person has a child  
12 in common:

13           **SECTION 10.** 813.12 (1) (a) 4. of the statutes is renumbered 813.12 (1) (am) 8.  
14 and amended to read:

15           813.12 (1) (am) 8. A threat to engage in the conduct under subd. 1., 2. ~~or~~ 3., 5.,  
16 or 6.

\* *→ Insert 5-16*  
17           **SECTION 11.** 813.12 (1) (ag) of the statutes is created to read:

18           813.12 (1) (ag) "Dating relationship" means a romantic or intimate social  
19 relationship between 2 adult individuals but "dating relationship" does not include  
20 a casual relationship or an ordinary fraternization between 2 individuals in a  
21 business or social context. A court shall determine if a dating relationship existed  
22 by considering the length of the relationship, the type of the relationship, and the  
23 frequency of the interaction between the adult individuals involved in the  
24 relationship.

25           **SECTION 12.** 813.12 (1) (am) 5. of the statutes is created to read:

**BILL**

1           813.12 (1) (am) 5. A violation of s. 943.01, involving property that belongs to  
2 the individual.

3           **SECTION 13.** 813.12 (1) (am) 6. of the statutes is created to read:

4           813.12 (1) (am) 6. A violation of s. 951.02, involving an animal that belongs to  
5 the individual.

6           **SECTION 14.** 813.12 (1) (cg) of the statutes is created to read:

7           813.12 (1) (cg) "Reasonable grounds" means more likely than not that a specific  
8 event has occurred or will occur.

9           **SECTION 15.** 813.12 (2) (a) of the statutes is amended to read:

10           813.12 (2) (a) No action under this section may be commenced by complaint and  
11 summons. An action under this section may be commenced only by a petition  
12 described under sub. (5) (a). The action commences with service of the petition upon  
13 the respondent if a copy of the petition is filed before service or promptly after service.  
14 If the judge or family court commissioner extends the time for a hearing under sub.  
15 (3) (c) and the petitioner files an affidavit with the court stating that personal service  
16 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful  
17 because the respondent is avoiding service by concealment or otherwise, the judge  
18 or family court commissioner shall inform the petitioner that he or she may serve the  
19 respondent by publication of a summary of the petition as a class 1 notice, under ch.  
20 985, and by mailing or sending a facsimile if the respondent's post-office address or  
21 facsimile number is known or can with due diligence be ascertained. The mailing or  
22 sending of a facsimile may be omitted if the post-office address or facsimile number  
23 cannot be ascertained with due diligence. A summary of the petition published as  
24 a class 1 notice shall include the name of the respondent and of the petitioner, notice

**BILL**

1 of the temporary restraining order, and notice of the date, time, and place of the  
2 hearing regarding the injunction.

3 **SECTION 16.** 813.12 (3) (a) (intro.) of the statutes is amended to read:

4 813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a  
5 temporary restraining order ordering the respondent to refrain from committing acts  
6 of domestic abuse against the petitioner, to avoid the petitioner's residence, except  
7 as provided in par. (am), or any ~~premises~~ other location temporarily occupied by the  
8 petitioner or both, or to avoid contacting or causing any person other than a party's  
9 attorney or a law enforcement officer to contact the petitioner unless the petitioner  
10 consents in writing, or any combination of these remedies requested in the petition,  
11 or any other appropriate remedy not inconsistent with the remedies requested in the  
12 petition, if all of the following occur:

13 **SECTION 17.** 813.12 (3) (a) 2. of the statutes is amended to read:

14 813.12 (3) (a) 2. The judge or family court commissioner finds reasonable  
15 grounds to believe that the respondent has engaged in, or based on prior conduct of  
16 the petitioner and the respondent may engage in, domestic abuse of the petitioner.

17 (aj) In determining whether to issue a temporary restraining order, the judge  
18 or family court commissioner shall consider the potential danger posed to the  
19 petitioner and the pattern of abusive conduct of the respondent but may not base his  
20 or her decision solely on the length of time since the last domestic abuse or the length  
21 of time since the relationship ended. The judge or family court commissioner may  
22 grant only the remedies requested or approved by the petitioner. The judge or family  
23 court commissioner may not dismiss or deny granting a temporary restraining order  
24 because of the existence of a pending action or of any other court order that bars

**BILL**

1 contact between the parties, nor due to the necessity of verifying the terms of an  
2 existing court order.

3 **SECTION 18.** 813.12 (3) (c) of the statutes is amended to read:

4 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held  
5 on issuance of an injunction under sub. (4). The temporary restraining order is not  
6 voided if the respondent is admitted into a dwelling that the order directs him or her  
7 to avoid. A judge or family court commissioner shall hold a hearing on issuance of  
8 an injunction within ~~7~~ 14 days after the temporary restraining order is issued, unless  
9 the time is extended upon the written consent of the parties or extended once for 14  
10 days upon a finding that the respondent has not been served with a copy of the  
11 temporary restraining order although the petitioner has exercised due diligence.

12 **SECTION 19.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

13 813.12 (4) (a) (intro.) A judge or family court commissioner may grant an  
14 injunction ordering the respondent to refrain from committing acts of domestic abuse  
15 against the petitioner, to avoid the petitioner's residence, except as provided in par.  
16 (am), or any premises other location temporarily occupied by the petitioner or both,  
17 or to avoid contacting or causing any person other than a party's attorney or a law  
18 enforcement officer to contact the petitioner unless the petitioner consents to that  
19 contact in writing, or any combination of these remedies requested in the petition,  
20 or any other appropriate remedy not inconsistent with the remedies requested in the  
21 petition, if all of the following occur:

22 **SECTION 20.** 813.12 (4) (a) 2. of the statutes is amended to read:

23 813.12 (4) (a) 2. The petitioner serves upon the respondent a copy or summary  
24 of the petition and notice of the time for hearing on the issuance of the injunction,

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1 or the respondent serves upon the petitioner notice of the time for hearing on the  
2 issuance of the injunction.

3 **SECTION 21.** 813.12 (4) (a) 3. of the statutes is amended to read:

4 813.12 (4) (a) 3. After hearing, the judge or family court commissioner finds  
5 reasonable grounds to believe that the respondent has engaged in, or based upon  
6 prior conduct of the petitioner and the respondent may engage in, domestic abuse of  
7 the petitioner.

8 (aj) In determining whether to issue an injunction, the judge or family court  
9 commissioner shall consider the potential danger posed to the petitioner and the  
10 pattern of abusive conduct of the respondent but may not base his or her decision  
11 solely on the length of time since the last domestic abuse or the length of time since  
12 the relationship ended. The judge or family court commissioner may grant only the  
13 remedies requested by the petitioner. The judge or family court commissioner may  
14 not dismiss or deny granting an injunction because of the existence of a pending  
15 action or of any other court order that bars contact between the parties, nor due to  
16 the necessity of verifying the terms of an existing court order.

17 **SECTION 22.** 813.12 (4) (c) 1. of the statutes is amended to read:

18 813.12 (4) (c) 1. An injunction under this subsection is effective according to its  
19 terms, for the period of time that the petitioner requests, but not more than 24 years.  
20 An injunction granted under this subsection is not voided if the petitioner allows or  
21 initiates contact with the respondent or by the admittance of the respondent into a  
22 dwelling that the injunction directs him or her to avoid.

23 **SECTION 23.** 813.12 (4) (c) 2. of the statutes is amended to read:

24 813.12 (4) (c) 2. When an injunction granted for less than 24 years expires, the  
25 court shall extend the injunction if the petitioner states that an extension is

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1 necessary to protect him or her. This extension shall remain in effect until 2 4 years  
2 after the date the court first entered the injunction.

3 **SECTION 24.** 813.12 (5) (d) of the statutes is created to read:

4 813.12 (5) (d) A petition may be prepared and filed by the person who alleges  
5 that he or she has been the subject of domestic abuse or by the guardian, as defined  
6 in s. 880.01 (3), of an incompetent individual, as defined in s. 880.01 (4), who has been  
7 the subject of domestic abuse.

8 **SECTION 25.** 813.12 (5m) of the statutes is created to read:

9 813.12 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)  
10 and the court order under sub. (3) or (4) shall not disclose the address of the alleged  
11 victim.

12 **SECTION 26.** 813.12 (6) (d) of the statutes is created to read:

13 813.12 (6) (d) The issuance of an order under s. 813.12 (3) or (4) is enforceable  
14 despite the existence of any other criminal or civil order restricting or prohibiting  
15 contact.

16 **SECTION 27.** 813.12 (7) (c) of the statutes is created to read:

17 813.12 (7) (c) A respondent who does not appear at a hearing at which the court  
18 orders an injunction under s. 813.12 (4) but who has been served with a copy of the  
19 petition and notice of the time for hearing under s. 813.12 (3) has constructive  
20 knowledge of the existence of the injunction and shall be arrested for violation of the  
21 injunction regardless of whether he or she has been served with a copy of the  
22 injunction.

23 **SECTION 28.** 814.61 (1) (e) of the statutes is amended to read:

24 814.61 (1) (e) No fee charged under this subsection in any action commenced  
25 under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.

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1 813.122, 813.123, or 813.125 if the petition alleges conduct that is the same as or  
2 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~  
3 (am) 1. to ~~4.~~ 8. If no fee is collected under this paragraph, the fee charged under this  
4 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall  
5 be collected from the respondent under s. 813.122, 813.123, or 813.125 if he or she  
6 is convicted of violating a temporary restraining order or injunction issued under s.  
7 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).

8 **SECTION 29.** 814.70 (1) of the statutes is amended to read:

9 814.70 (1) SERVICE OF PROCESS. For each service or attempted service of a  
10 summons or any other process for commencement of an action, a writ, an order of  
11 injunction, a subpoena, or any other order, \$12 for each defendant or person. If there  
12 is more than one defendant or person to be served at a given address, \$6 for each  
13 additional defendant or person. No fee charged under this subsection in any action  
14 commenced under s. 813.12, 813.122, or 813.123 may be collected from a petitioner  
15 under s. 813.12, 813.122, or 813.123. The fee charged under this subsection in any  
16 action commenced under s. 813.12, 813.122, 813.123, or 813.125 shall be collected  
17 from the respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of  
18 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),  
19 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4). No fee charged under this  
20 subsection in any action commenced under s. 813.125 may be collected from a  
21 petitioner under s. 813.125 if the petition alleges conduct that is the same as or  
22 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~  
23 (am) 1. to ~~4.~~ 8. If no fee is collected under this subsection from a petitioner under  
24 s. 813.125, the fee charged under this subsection in any action commenced under s.  
25 813.125 shall be collected from the respondent under s. 813.125 if he or she is

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1 convicted of violating a temporary restraining order or injunction issued under s.  
2 813.125 (3) or (4).

3 **SECTION 30.** 814.70 (3) (intro.) of the statutes is amended to read:

4 814.70 (3) (intro.) For travel in serving any summons, writ or other process,  
5 except criminal warrants, and except that a fee under this subsection in any action  
6 commenced under s. 813.12, 813.122, or 813.123 may not be collected from a  
7 petitioner but shall be collected from the respondent if he or she is convicted of  
8 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),  
9 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4), and except that a fee under  
10 this subsection in any action commenced under s. 813.125 may not be collected from  
11 a petitioner if the petition alleges conduct that is the same as or similar to conduct  
12 that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~ (am) 1. to ~~4~~ 8, but  
13 shall be collected from the respondent if he or she is convicted of violating a  
14 temporary restraining order or injunction issued under s. 813.125 (3) or (4):

15 **SECTION 31.** 895.73 (1) (a) of the statutes is amended to read:

16 895.73 (1) (a) “Abusive conduct” means domestic abuse, as defined under s.  
17 46.95 (1) (a), 813.12 (1) ~~(a)~~ (am), or 968.075 (1) (a), harassment, as defined under s.  
18 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under  
19 s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.  
20 948.02 to 948.11.

21 **SECTION 32. Initial applicability.**

22 (1) This act first applies to actions commenced on the effective date of this  
23 subsection.

24 (END)

*D-N*  
This draft adds caregivers back  
to those that may commit domestic abuse.  
RPN



**BILL**

*Insert 5-16*

1 as defined in s. 813.122 (1) (a), of the child as defined in s. 48.02 (2), or evidence of  
2 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,  
3 as defined in s. 813.12 (1) (a) (am), creates a rebuttable presumption that the parties  
4 will not be able to cooperate in the future decision making required.

5 **SECTION 8.** 767.24 (5) (i) of the statutes is amended to read:

6 767.24 (5) (i) Whether there is evidence of interspousal battery as described  
7 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (a) (am).

8 **SECTION 9.** 813.12 (1) (a) (intro.), 1., 2., and 3. of the statutes are renumbered  
9 813.12 (1) (am) (intro.), 1., 2., and 3., and 813.12 (1) (am) (intro.), as renumbered, is  
10 amended to read:

11 813.12 (1) (am) (intro.) "Domestic abuse" means any of the following engaged  
12 in by an adult family member or adult household member against another adult  
13 family member or adult household member, by an adult caregiver against an adult  
14 who is under the caregiver's care, by an adult against his or her adult former spouse,  
15 by an adult against an adult with whom the individual has or had a dating  
16 relationship, or by an adult against an adult with whom the person has a child in  
17 common:

18 **SECTION 10.** 813.12 (1) (a) 4. of the statutes is renumbered 813.12 (1) (am) 8.  
19 and amended to read:

20 813.12 (1) (am) 8. A threat to engage in the conduct under subd. 1., 2. ~~or~~ 3., 5.,  
21 6., or 7.

22 **SECTION 11.** 813.12 (1) (ad) of the statutes is created to read:

23 813.12 (1) (ad) "Caregiver" means an individual who is a provider of in-home  
24 or community care to an individual through regular and direct contact.

25 **SECTION 12.** 813.12 (1) (ag) of the statutes is created to read:

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Insert 6-8

9

1 813.12 (1) (cg) "Reasonable grounds" means more likely than not that a special  
2 event has occurred or will occur.

3 SECTION 18. 813.12 (1) (cj) of the statutes is created to read:

4 813.12 (1) (cj) "Regular and direct contact" means face-to-face physical  
5 proximity to an individual that is planned, scheduled, expected, or periodic.

6 SECTION 19. 813.12 (2) (a) of the statutes is amended to read:

7 813.12 (2) (a) No action under this section may be commenced by complaint and  
8 summons. An action under this section may be commenced only by a petition  
9 described under sub. (5) (a). The action commences with service of the petition upon  
10 the respondent if a copy of the petition is filed before service or promptly after service.  
11 If the judge or family court commissioner extends the time for a hearing under sub.  
12 (3) (c) and the petitioner files an affidavit with the court stating that personal service  
13 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful  
14 because the respondent is avoiding service by concealment or otherwise, the judge  
15 or family court commissioner shall inform the petitioner that he or she may serve the  
16 respondent by publication of a summary of the petition as a class 1 notice, under ch.  
17 985, and by mailing or sending a facsimile if the respondent's post-office address or  
18 facsimile number is known or can with due diligence be ascertained. The mailing or  
19 sending of a facsimile may be omitted if the post-office address or facsimile number  
20 cannot be ascertained with due diligence. A summary of the petition published as  
21 a class 1 notice shall include the name of the respondent and of the petitioner, notice  
22 of the temporary restraining order, and notice of the date, time, and place of the  
23 hearing regarding the injunction.

24 SECTION 20. 813.12 (3) (a) (intro.) of the statutes is amended to read:

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3191/3dn  
RPN:hmh:pg

January 8, 2002

This draft adds caregivers back to those that may commit domestic abuse.

Robert P. Nelson  
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# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

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January 8, 2002

### MEMORANDUM

To: Senator Burke

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-3191/3 Expanding domestic abuse restraining orders and injunctions

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

\_\_\_\_ JACKET FOR ASSEMBLY    ~~X~~ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.