

2001 DRAFTING REQUEST**Bill**Received: **04/27/2001**Received By: **nelsorp1**Wanted: **As time permits**

Identical to LRB:

For: **Brian Burke (608) 266-8535**By/Representing: **Tanya B**This file may be shown to any legislator: **NO**Drafter: **nelsorp1**

May Contact:

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Subject: **Courts - garn/injunct**

Extra Copies:

Submit via email: **NO****Pre Topic:**

No specific pre topic given

Topic:

Expanding domestic abuse restraining orders and injunctions

Instructions:

See Attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
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Change to Yes - to Sen. Burke's office

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10/23/01*

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10/1/01*

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FE Sent For:

*13 hnh
7/19/01*
J 7/20
7/20

Nelson, Robert P.

From: Heringlake, Katherine
Sent: Tuesday, December 11, 2001 9:59 AM
To: Nelson, Robert P.
Subject: RE: LRB-3191/P4

Hi Robert-

I met with Cory Mason and Patti Seeger again last week and we think we found a solution to the dating relationship issue. We would like the bill to define what a dating relationship is NOT. Patti Seeger should have sent or will send you shortly some information on other state's language that we would like to model ours after.

If you have questions please call.

Katy Heringlake

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

From: Nelson, Robert P.
Sent: Tuesday, September 18, 2001 3:35 PM
To: 'pattis@inxpress.net'
Cc: Heringlake, Katherine
Subject: LRB-3191/P4

I received your comments regarding the draft and have made most of the changes.

However, you say that the language about a guardian representing an incompetent adult is no longer in the draft, but in the draft, /P4, on page 9, lines 16 -20 is that language. Or am I missing something.

I am also concerned about adding language giving judges authority to include other appropriate remedies in s. 813.12 (3) (a) and (4) (a), because I remember being told by other persons like you that judges take too much liberty if they are given such authority. Perhaps we could allow the judge to include other appropriate remedies that are not inconsistent with the remedies sought in the petition. Does that work?

Attached is a copy of 3191/P4, which is the most recent draft before making the changes based on your comments in your August e-mail. I am not sure if you have that version.

<< File: 01-3191/P4 >>

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[Handwritten notes: KIT, PS, PS, 100, <END>]

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MGD
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Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.
Use this form only for bill draft requests. Attach more pages if necessary.

Date 4/25/01

Legislator, agency, or other person requesting this draft Sen. Burke

Person submitting request (name and phone number) Tanya Bjork 6-8535

Persons to contact for questions about this draft (names and phone numbers) _____

Describe the problem, including any helpful examples. How do you want to solve the problem?

Changes to Restraining Order law

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons Patti Seger, WCADU

Do you consider this request urgent? YES NO If yes, please indicate why may need for budget Amendment for JPC

Should we give this request priority over any pending request of this legislator, agency, or person?
YES NO

W.A. R. H. #10
W.A. R. H.

Proposed revision of 813.12 by WCADV for 2001-02 Session

813.12 Domestic abuse restraining orders and injunctions.

(1) Definitions. In this section:

(a) "Domestic abuse" means any of the following engaged in by an adult family member or adult household member ¹ against another adult family member or adult household member, by an adult against his or her adult former spouse, by an adult against an adult with whom the person has a child in common, ~~by a caregiver against an adult², or by a person who is or has been in a social relationship of a romantic or intimate nature with another person.~~

1. Intentional infliction of physical pain, physical injury or illness
2. Intentional impairment of physical condition.
3. A violation of s. 940.225(1), (2) or (3).
- ~~4. A violation of s. 940.01~~
- ~~5. A violation of s. 951.02~~
6. Dating violence³
7. Financial exploitation⁴
8. A threat to engage in the conduct under subd. 1., 2., 3., 4., 5., 6., or 7.

(b) "Family member" means a spouse, a parent, a child or a person related by blood or adoption to another person.

(c) "Household member" means a person currently or formerly residing in a place of abode with another person

~~(d) "Caregiver" means a person who is an informal or formal provider of in-home and community care to an individual. The caregiver has, or is expected to have, regular, direct contact with the individual. "Regular" means contact that is planned, scheduled, expected or periodic. "Direct contact" means face-to-face physical proximity to an individual that affords the opportunity to commit abuse or neglect of a client or to misappropriate the property of a client.⁶~~

¹ The reason I included "by a caregiver against an adult" here rather than under the definition of a household member is that it directly contradicts the definition of household member. In the manner, it would not fit to call a caregiver a family member either.

² The reason that I included "by a person who engages in dating violence" is because if we added it as part of the definition of "family or household member", which other states like MI, MN and IL do, is that we would be limiting the function of the language to adults...by placing it where I did, it allows for the language "a person" to function in a way that allows teens involved in such a relationship to be covered by the statute.

³ Wisconsin's Damage to Property Statute.

⁴ Wisconsin's Mistreatment of Animals Statute.

⁵ The first sentence comes from the federal Older Americans Act Title 111, Section 316. The second sentence in the definition is from Wis. Stats. 50.065(1)a.

⁶ Wis. Stats. 50.065(2)(br).

(c) "Dating violence" means violence committed by a person

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship shall be determined based on consideration of the following factors:
 - (a) the length of the relationship;
 - (b) the type of relationship; and
 - (c) the frequency of interaction between the persons involved in the relationship.

(d) "Financial exploitation" means obtaining a person's money or property by deceiving or enticing the person, or by forcing, compelling, or coercing the person to give, sell at less than fair market value, or in other ways convey money or property against his or her will or without his or her informed consent. It also includes taking, carrying away, using, transferring, concealing or retaining possession of a person's money or property without the person's informed consent.

(e) "Petitioner" means an adult family member, an adult household member, a spouse, a former spouse, an person with whom respondent has a child in common, a person with whom respondent is or has been in a social relationship of a romantic or intimate nature, and an incompetent person whose guardian is acting on his or her behalf.

(f) "Constructive knowledge" means a presupposition of a person's general awareness or possession of information, facts, ideas, truths or principles based on what can be inferred from other statements or circumstances.

⁷ This language is the same as that used in VAWA.

⁸ This definition was supplied by Jane A. Raymond, Advocacy & Protection Systems Developer, Wisconsin Department of Health and Family Services, Division of Supportive Living, Bureau of Aging & Long Term Care Resources.

⁹ This addition is an attempt to allow a guardian to act on behalf of an incompetent adult. It is somewhat troubling to me, though, because I do not want the guardian to be mistaken for the petitioner...if it is read that way, the actual person for whom the petition exists may not be protected by it due to the wording of 813.12 as a whole. Minnesota's Domestic Abuse Act 518B.01 Subd. 4 covers this issue much more thoroughly. Subd.4 (a) allows for a petition to be made by a variety of persons, including any family or household member personally or by a guardian or any other reputable adult over 25, if the court finds it to be in the best interests of a minor. We may want to consider suggesting language/sections similar to MN's. Another option would be to use something similar to Arizona's language, which states "If a person is either temporarily or permanently unable to request an order, a third party may request an order of protection on behalf of the plaintiff". Arizona Statute 13-3602.

¹⁰ This definition comes from the Encarta Dictionary Online (2001) – combined definitions of constructive and knowledge. I searched the WI statutes and definition sections and there is NO spelled out definition for constructive knowledge. It is used in WI Stats. 101.11-ANNOT, 102.07(4)(a), 102.60(7), 631.11(4)(a), 846.01-ANNOT., 893.82(4)(b)1, and 940.291(1). The closest law dictionary definition I could find was a definition of constructive from law.com's legal dictionary, which provides "a legal fiction for treating a situation as if it were actually so". This seemed too "legal".

(i) "Tribal court" means a court established any federally recognized Wisconsin Indian tribe or band, except the Menominee Indian tribe of Wisconsin.

(j) "Tribal order or injunction" means a temporary restraining order or injunction issued by a tribal court under a tribal domestic abuse ordinance adopted in conformity with this section.

(k) "Authenticate" means to validate a document in such a manner that the identity of the persons who originates the document is incontrovertible and the information contained in the document is identical to that originated by the person.

(l) "Reasonable grounds" means ...¹²

(2) Commencement of Action and Response.

(a) No action under this section may be commenced by complaint and summons. An action under this section may be commenced only by a petition described under sub. (5) (a). The action commences with service of the petition upon the respondent if a copy of the petition is filed before service or promptly after service. If the judge or family court commissioner extends the time for a hearing under (3) (c) and the petitioner files an affidavit with the court stating that personal service by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful because the respondent is avoiding service by concealment or otherwise, the judge or family court commissioner shall inform the petitioner that the respondent may be served by publication of a summary of the petition or alternatively the date of the hearing as a class 1 notice, under ch. 985, and by mailing through registered mail if the respondent's post office address is known or can with due diligence be ascertained. The respondent may also be served by fax.¹⁴ The mailing may be omitted if the post-office address cannot be ascertained with due diligence. A petition may be filed in conjunction with an action affecting the family commenced under ch. 767, but commencement of an action affecting the family or any other action is not necessary for the filing of a petition or the issuance of a temporary restraining order or an injunction. A judge or family court commissioner may not make findings or issue orders under s. 767.23 or 767.24 while granting relief requested only under this section. The respondent may respond to the

¹¹ This definition comes from WI Stat. 137.04(1).

¹² Need to find a good definition.

¹³ Alabama allows service via certified mail. See Alabama Statutes Section 30-5-7(2).

¹⁴ Arizona allows service via fax. See Arizona Statutes Section 13-3602(L).

petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing.

(2m) NO CHANGES

(3) Temporary Restraining Orders

(a) A judge or family court commissioner shall issue a temporary restraining order ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), ~~or any other location~~¹⁵ temporarily occupied by the petitioner or both as provided in par. (at), or to avoid contacting or causing any person other than a party's attorney ~~or law enforcement officer~~ to contact the petitioner unless the petitioner consents in writing, or any combination of these remedies requested in the petition, if all of the following occur

1. NO CHANGES
2. NO CHANGES

(am) NO CHANGES

~~(a) If both petitioner and respondent are present, the respondent is to remain 500 feet from petitioner at all times.~~

(b) NO CHANGES

~~(c) The judge or family court commissioner shall not dismiss or deny granting a temporary restraining order because of the existence of a pending action or any other civil or criminal order that bars contact between the parties or the necessity of verifying the terms of an existing order.~~

(d) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4). The temporary restraining order is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. A judge or family court commissioner shall hold a hearing on issuance of an injunction within

¹⁵ Arkansas allows the court to: "Exclude the abusing party from the place of business or employment, school, or other location of the petitioner or victim". See Arkansas Statute 9-15-205(2). This "other location" language would seem to indicate a public place. Colorado also seems to apply its statute to any and all locations (including public places) by stating: "The availability of an emergency protection order shall not be affected by the subject of domestic abuse leaving his residence to avoid such abuse." Colorado Revised Statutes 14-4-103(7)

¹⁶ This language was added to address concerns regarding consistency with WI's mandatory arrest law.

¹⁷ This is the language is generally from MN's statute 518B.01 Subd. 4 (d)...the permissive (may) was replaced with the mandatory (shall) and the section was made specific to TRO's, as MN's law generally refers to relief (encompassing both TRO's and injunctions). Changes have been made as per specific requests from Patti in response to concerns raised at a policy meeting.

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

(c) NO CHANGES

(4) Injunction.

(a) A judge or family court commissioner may grant an injunction ordering the respondent to refrain from committing acts of domestic abuse against the petitioner, to avoid the petitioner's residence, except as provided in par. (am), or any other ~~location~~ temporarily occupied by the petitioner or both as provided in par. (at), or to avoid contacting or causing any person other than a party's attorney ~~or a law enforcement officer~~ to contact the petitioner unless the petitioner consents in writing, or any combination of these remedies requested in the petition, if all of the following occur:

1. NO CHANGES

2. The petitioner serves upon the respondent a copy ~~of~~ ~~jurisdiction~~ of the petition and notice of the time for hearing on the issuance of the injunction, or the respondent serves upon the petitioner notice of the time for hearing on the issuance of the injunction.

3. After hearing, the judge or family court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner. In determining whether to issue an injunction, the judge or family court commissioner shall consider the potential danger posed to the petitioner and the pattern of abusive conduct of the respondent but may not base his or her decision solely on the length of time since the last domestic abuse or the length of time since the relationship ended. ~~The judge or family court commissioner shall not dismiss or deny granting an injunction because of the existence of a pending action, or other civil or criminal order that bars contact between the parties or the necessity of~~

¹⁸ 7 days was changed to 14 days to allow enough time for the hearing to be scheduled...this is particularly a problem in WI's urban areas.

¹⁹ "Premises" changed to "location" to reflect language change in WI Stat. 813.12(3)(a).

²⁰ This language was added to address concerns of consistency with WI's mandatory arrest law, 968.075(5).

verifying the terms of an existing order.²¹ The judge or family court commissioner may grant only the remedies requested by the petitioner.

(am) NO CHANGES

(a) If both petitioner and respondent are present, the respondent is to remain 500 feet from petitioner at all times.

(b) NO CHANGES

- (a) 1. An injunction under this subsection is effective according to its terms, for the period of time that the petitioner requests, but not more than 4 years. An injunction granted under this subsection is not voided by the admittance of the respondent into a dwelling that the injunction directs him or her to avoid.
2. When an injunction granted for less than 4 years expires, the court shall extend the injunction if the petitioner states that an extension is necessary to protect him or her. This extension shall remain in effect until 4 years after the date the court first entered this injunction.

4. NO CHANGES

(4m) NO CHANGES

(5) Petition.

(a) NO CHANGES

(am) NO CHANGES

(b) Upon the petitioner's request, information maintained by the court regarding the petitioner's location or residence is not accessible to the public and may be disclosed only to court personnel or law enforcement for purposes of service of process, conducting an investigation, or enforcing an order.

- (c) The clerk of circuit court shall provide the simplified forms provided under s. 46.95 (3) (c) to help a person file a petition.
- (d) A judge or family court commissioner shall accept any legible petition for a temporary restraining order or injunction.

(6) NO CHANGES

²¹ For the most part this language is taken from MN's law 518B.01 Subd. 4 (d). The only change is from permissive language (may) to mandatory language (shall) and making explicit that the relief refers to an injunction. MN's law refers only to the petition and relief, WI's law separates sections on TRO's and injunctions, so it was necessary to so accommodate the statute.

²² This is the language verbatim, from Minnesota's Domestic Abuse Act 518B.01 Subd. 3b.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Generate

1 AN ACT ...; relating to: domestic abuse restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

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

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

*Insert
1-2 →*

2 SECTION 1. 813.12 (1) (a) (intro.) of the statutes is amended to read:

3 813.12 (1) (a) (intro.) "~~Domestic abuse~~" ^{*conduct*} "Abusive behavior" means any of the
4 following engaged in by an adult family member or adult household member against
5 another adult family member or adult household member, by an adult against his or
6 her adult former spouse or by an adult against an adult with whom the person has
7 a child in common:

8 History: 1983 a. 704, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

8 SECTION 2. 813.12 (1) (a) 4. of the statutes is renumbered 813.12 (1) (a) ^{*D*} and

9 amended to read:

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

3 History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

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

4 813.12 (1) (a) 5. A violation of s. 943.01, involving property that belongs to the
 5 individual that is the subject of the abusive behavior.

6 SECTION 4. 813.12 (1) (a) 6. of the statutes is created to read:

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

9 SECTION 5. 813.12 (1) (a) 7. of the statutes is created to read:

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

11 SECTION 6. 813.12 (1) (ag) of the statutes is created to read:

12 813.12 (1) (ag) "Care^{Giver}~~giver~~" means an individual who is a provider of in-home
 13 and community care to an individual through regular and direct contact.

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

15 813.12 (1) (am) "Domestic abuse" means abusive ^{conduct}~~behavior~~ that occurs in the
 16 following situations:

- 17 1. By an adult family member against another adult family member.
- 18 2. By an adult household member against another adult household member.
- 19 3. By an adult against his or her adult former spouse.
- 20 4. By an adult against an adult with whom the individual has a child in
 21 common.
- 22 5. By a caregiver against the adult receiving the care.
- 23 6. By an adult against an adult with whom the individual had a romantic
 24 relationship.

1 **SECTION 8.** 813.12 (1) (b^m) of the statutes is created to read:

2 813.12 (1) (b^m) “Financial exploitation” means any of the following:

3 1. Obtaining an individual’s money or property by deceiving or enticing the
4 individual.

5 2. Forcing, compelling, or coercing an individual to give, sell at less than fair
6 market value, or in other ways convey, money or property against the individual’s
7 will or without the individual’s informed consent.

8 3. Taking, carrying away, using, transferring, concealing, or retaining
9 possession of an individual’s money or property without the individual’s informed
10 consent.

11 **SECTION 9.** 813.12 (1) (c^g) of the statutes is created to read:

12 813.12 (1) (c^g) “Reasonable grounds” means a particularized and objective
13 reason, supported by specific and articulable facts, for the belief that a specific event
14 has occurred or will occur.

15 **SECTION 10.** 813.12 (1) (c^j) of the statutes is created to read:

16 813.12 (1) (c^j) “Regular and direct contact” means face-to-face physical
17 proximity to an individual that is planned, scheduled, expected, or periodic.

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

19 813.12 (1) (c^m) “Romantic relationship” means a relationship between 2 adult
20 individuals that consists of an affectionate or intimate association between the 2
21 individuals. A court shall determine if a romantic relationship existed by
22 considering the length of the relationship, the type of the relationship, and the
23 frequency of interaction between the individuals involved in the relationship.

24 **SECTION 12.** 813.12 (2) (a) of the statutes is amended to read:

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

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 198; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

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

15 813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a
16 temporary restraining order ordering the respondent to refrain from committing acts
17 of domestic abuse against the petitioner, to avoid the petitioner's residence, except
18 as provided in par. (am), or any premises other location temporarily occupied by the
19 petitioner or both, or to avoid contacting or causing any person other than a party's
20 attorney or a law enforcement officer to contact the petitioner unless the petitioner
21 consents in writing, or any combination of these remedies requested in the petition,
22 if all of the following occur:

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 198; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

23 **SECTION 14.** 813.12 (3) (a) 2. of the statutes is amended to read:

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

~~813.12 (3) (a) 2~~
~~813.12 (3) (a) 2~~
4 (aj) In determining whether to issue a temporary restraining order, the judge
5 or family court commissioner shall consider the potential danger posed to the
6 petitioner and the pattern of abusive conduct of the respondent but may not base his
7 or her decision solely on the length of time since the last domestic abuse or the length
8 of time since the relationship ended. The judge or family court commissioner may
9 grant only the remedies requested or approved by the petitioner. The judge or family
10 court commissioner may not dismiss or deny granting a temporary restraining order
11 because of the existence of a pending action, of any other court order that bars contact
12 between the parties, or of the necessity of verifying the terms of an existing court
13 order.

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

14 **SECTION 15.** 813.12 (3) (c) of the statutes is amended to read:

15 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
16 on issuance of an injunction under sub. (4). The temporary restraining order is not
17 voided if the respondent is admitted into a dwelling that the order directs him or her
18 to avoid. A judge or family court commissioner shall hold a hearing on issuance of
19 an injunction within ~~7~~ 14 days after the temporary restraining order is issued, unless
20 the time is extended upon the written consent of the parties or extended once for 14
21 days upon a finding that the respondent has not been served with a copy of the
22 temporary restraining order although the petitioner has exercised due diligence.

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

23 **SECTION 16.** 813.12 (4) (a) (intro.) of the statutes is amended to read:

1 813.12 (4) (a) (intro.) A judge or family court commissioner may grant an
2 injunction ordering the respondent to refrain from committing acts of domestic abuse
3 against the petitioner, to avoid the petitioner's residence, except as provided in par.
4 (am), or any premises other location temporarily occupied by the petitioner or both,
5 or to avoid contacting or causing any person other than a party's attorney or a law
6 enforcement officer to contact the petitioner unless the petitioner consents to that
7 contact in writing, or any combination of these remedies requested in the petition,
8 if all of the following occur:

9 History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

9 **SECTION 17.** 813.12 (4) (a) 2. of the statutes is amended to read:

10 813.12 (4) (a) 2. The petitioner serves upon the respondent a copy or summary
11 of the petition and notice of the time for hearing on the issuance of the injunction,
12 or the respondent serves upon the petitioner notice of the time for hearing on the
13 issuance of the injunction.

14 History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

14 **SECTION 18.** 813.12 (4) (a) 3. of the statutes is amended to read:

15 813.12 (4) (a) 3. After hearing, the judge or family court commissioner finds
16 reasonable grounds to believe that the respondent has engaged in, or based upon
17 prior conduct of the petitioner and the respondent may engage in, domestic abuse of
18 the petitioner.

19 ~~813.12 (a) 3.~~ (aj) In determining whether to issue an injunction, the judge or family court
20 commissioner shall consider the potential danger posed to the petitioner and the
21 pattern of abusive conduct of the respondent but may not base his or her decision
22 solely on the length of time since the last domestic abuse or the length of time since
23 the relationship ended. The judge or family court commissioner may grant only the
24 remedies requested by the petitioner. The judge or family court commissioner may

1 not dismiss or deny granting an injunction because of the existence of a pending
2 action, of any other court order that bars contact between the parties, or of the
3 necessity of verifying the terms of an existing court order.

4 History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

4 SECTION 19. 813.12 (4) (c) 1. of the statutes is amended to read:

5 813.12 (4) (c) 1. An injunction under this subsection is effective according to its
6 terms, for the period of time that the petitioner requests, but not more than 24 years.
7 An injunction granted under this subsection is not voided by the admittance of the
8 respondent into a dwelling that the injunction directs him or her to avoid.

9 History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

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

10 813.12 (4) (c) 2. When an injunction granted for less than 24 years expires, the
11 court shall extend the injunction if the petitioner states that an extension is
12 necessary to protect him or her. This extension shall remain in effect until 24 years
13 after the date the court first entered the injunction.

14 History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162.

14 SECTION 21. 813.12 (5) (d) of the statutes is created to read:

15 813.12 (5) (d) A petition may be prepared and filed by the person who alleges
16 that he or she has been the subject of domestic abuse or by the guardian, as defined
17 in s. 880.01 (3), of an incompetent individual, as defined in s. 880.01 (4), who has been
18 the subject of domestic abuse.

19 SECTION 22. 813.12 (5) (e) of the statutes is created to read:

20 813.12 (5) (e) Upon the petitioner's request, the judge or family court
21 commissioner shall order that information maintained by the court regarding the
22 petitioner's location or residence be confidential and be disclosed only to court
23 personnel or law enforcement agencies for the purpose of service of process,
24 conducting an investigation, or enforcing an order.

→ Insert 7-24

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3191/P1dn
RPN:pmh

Date

I did not use the definition for "dating violence" because the term "violence" is very ambiguous and adding that term to the list of abusive behaviors would not add a new, understandable behavior. Instead I added a term "romantic relationship" and added individuals in such a relationship to those who do engage in or are subject to domestic abuse.

I did not add the definition of "authenticate" or "constructive knowledge" because those words are not used in section 813.12 of the statutes.

Adding more persons to those who are listed in s. 813.12 (1) (a) (intro.) and who commit domestic abuse makes that introductory phrase very cumbersome. Instead, I decided to define "abusive ~~behavior~~^{conduct}" and then list separately who do engage in that behavior for a definition of "domestic abuse."

(X) I did create a definition of "reasonable grounds" based on the law dictionary definition of "probable cause" and "reasonable suspicion" which seem to be used in place of "reasonable grounds" in many places. The term "reasonable grounds" is used over 70 times in the statutes and "probable cause" more than 250 times, but neither term is defined in the statutes. Numerous cases indicate what those terms mean. See the annotations after section 968.07 of the statutes for a partial list of those cases.

There was a suggestion that language be added allowing service on a respondent by facsimile, but I was not sure if that service was to be in lieu of the mailing required as part of a service by publication or in lieu of the service by publication. I did not add this facsimile service language.

~~Language~~^{There} was ~~suggested~~^{also a suggestion} about adding language requiring the respondent to remain 500 feet away from the petitioner at all times when they both are present. I do not know what that language is suppose to require. Present at what? The placement of this suggested language did not make any sense. I did not include that suggestion.

Robert P. Nelson
Senior Legislative Attorney
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E-mail: robert.nelson@legis.state.wi.us

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3191/P1ins
RPN:.....

1 insert 1-2:

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

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

History: 1971 c. 185 s. 1; 1971 c. 228 s. 42; 1971 c. 230; 1971 c. 307 s. 51; Stats. 1971 s. 101.22; 1975 c. 94, 275, 421, 422; 1977 c. 29; 1977 c. 418 s. 929 (55); 1979 c. 110; 1979 c. 177 s. 85; 1979 c. 188, 221, 355; 1981 c. 112, 180; 1981 c. 391 s. 210; 1983 a. 27, 189; 1985 a. 238, 319; 1987 a. 262; 1989 a. 47 ss. 2 to 5, 8 to 11; 1989 a. 94, 106, 139, 359; 1991 a. 295, 315; 1993 a. 27; 1995 a. 27 s. 3687; Stats. 1995 s. 106.04; 1995 a. 225; 1995 a. 448 ss. 66, 68; 1997 a. 112, 237, 312; 1999 a. 82 ss. 38 to 74; Stats. 1999 s. 106.50; 1999 a. 150 s. 672; 1999 a. 162.

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

17 767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20
18 (1m) or domestic abuse as defined in s. 813.12 (1) (a) (am).

History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03, 179 Wis. 2d xv; 1995 a. 275, 343; 1999 a. 9.

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

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

History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93-03, 179 Wis. 2d xv; 1995 a. 275, 343; 1999 a. 9.

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

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.

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9.

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.

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9.

15 **SECTION 6. 767.24 (1m) (b)** 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.

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9.

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

1 court shall consider, along with any other pertinent items, any reasons offered by a
 2 party objecting to joint legal custody. Evidence that either party engaged in abuse,
 3 as defined in s. 813.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of
 4 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,
 5 as defined in s. 813.12 (1) (a) (am), creates a rebuttable presumption that the parties
 6 will not be able to cooperate in the future decision making required.

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9.

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

8 767.24 (5) (i) Whether there is evidence of interspousal battery as described
 9 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) (~~a~~) (am).

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9.

10

11 insert 7-24:

12 **SECTION 9.** 814.61 (1) (e) of the statutes is amended to read:

13 814.61 (1) (e) No fee charged under this subsection in any action commenced

14 under s. 813.122, 813.123_Δ or 813.125 may be collected from a petitioner under s.

15 813.122, 813.123_Δ or 813.125 if the petition alleges conduct that is the same as or

16 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (a)

17 1. to ~~4, 8~~. If no fee is collected under this paragraph, the fee charged under this

18 subsection for petitions filed and granted under s. 813.122, 813.123_Δ or 813.125 shall

19 be collected from the respondent under s. 813.122, 813.123_Δ or 813.125 if he or she is

20 convicted of violating a temporary restraining order or injunction issued under s.

21 813.122 (4) or (5), 813.123 (4) or (5)_Δ or 813.125 (3) or (4).

History: 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 228, 447, 538; 1985 a. 29, 169; 1987 a. 27 ss. 2143p, 3202 (24); 1987 a. 144, 355, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 191; 1991 a. 39, 221, 269; 1993 a. 46, 319, 326, 481, 491; 1995 a. 27, 201, 224, 269, 279, 289, 306; 1997 a. 27, 35, 285; 1999 a. 9, 71.

22

SECTION 10. 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 1. to ~~4, 8~~. If no fee is collected under this subsection from a petitioner under s. 813.125,
 16 the fee charged under this subsection in any action commenced under s. 813.125
 17 shall be collected from the respondent under s. 813.125 if he or she is convicted of
 18 violating a temporary restraining order or injunction issued under s. 813.125 (3) or
 19 (4).

History: 1981 c. 317; 1983 a. 92; 1987 a. 181; 1993 a. 301, 319; 1995 a. 27, 225, 306, 417; 1999 a. 71, 186.

20 **SECTION 11. 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

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

8 History: 1981 c. 317; 1983 a. 92; 1987 a. 181; 1993 a. 301, 319; 1995 a. 27, 225, 306, 417; 1999 a. 71, 186.

SECTION 12. 895.73 (1) (a) of the statutes is amended to read:

9 895.73 (1) (a) "Abusive conduct" means domestic abuse, as defined under s.
10 46.95 (1) (a), 813.12 (1) (a) (~~a~~) (am), or 968.075 (1) (a), harassment, as defined under s.
11 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under
12 s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.
13 948.02 to 948.11.

History: 1991 a. 276; 1995 a. 220.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3191/P1dn
RPN:hmh:jf

May 8, 2001

I did not use the definition for "dating violence" because the term "violence" is very ambiguous and adding that term to the list of abusive behaviors would not add a new, understandable behavior. Instead I added a term "romantic relationship" and added individuals in such a relationship to those who do engage in or are subject to domestic abuse.

I did not add the definition of "authenticate" or "constructive knowledge" because those words are not used in section 813.12 of the statutes.

Adding more persons to those who are listed in s. 813.12 (1) (a) (intro.) and who commit domestic abuse makes that introductory phrase very cumbersome. Instead, I decided to define "abusive conduct" and then list separately who do engage in that behavior for a definition of "domestic abuse."

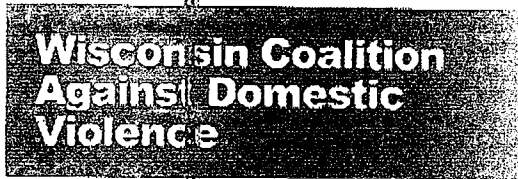
I did create a definition of "reasonable grounds" based on the law dictionary definition of "probable cause" and "reasonable suspicion," which seem to be used in place of "reasonable grounds" in many places. The term "reasonable grounds" is used over 70 times in the statutes and "probable cause" more than 250 times, but neither term is defined in the statutes. Numerous cases indicate what those terms mean. See the annotations after section 968.07 of the statutes for a partial list of those cases.

There was a suggestion that language be added allowing service on a respondent by facsimile, but I was not sure if that service was to be in lieu of the mailing required as part of a service by publication or in lieu of the service by publication. I did not add this facsimile service language.

There was also a suggestion about adding language requiring the respondent to remain 500 feet away from the petitioner at all times when they both are present. I do not know what that language is suppose to require. Present at what? The placement of this suggested language did not make any sense. I did not include that suggestion.

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307 S Paterson Suite 1
Madison, WI 53703
Phone: 608-255-0539
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Fax

To: TAA

Fax: 26

Phone:

Re:

Urgent

Comments:

ROBERT -
Please take a
look at this
and incorporate
what makes
sense.

11 27 01

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Reply

Please Recycle

If you have
questions call
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or call
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Bink Bink
in a few minutes

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I'll send
to you

Pat.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-9191/P1
RPN:hmb/jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** to renumber and amend 813.12 (1) (a) 4.; to amend 106.50 (5m) (d),
 2 767.11 (8) (b) 2., 767.11 (10) (e) 2., 767.24 (1m) (b), 767.24 (1m) (c), 767.24 (1m)
 3 (c), 767.24 (2) (b) 2. c., 767.24 (5) (i), 813.12 (1) (a) (intro.), 813.12 (2) (a), 813.12
 4 (3) (a) (intro.), 813.12 (3) (a) 2., 813.12 (3) (c), 813.12 (4) (a) (intro.), 813.12 (4)
 5 (a) 2., 813.12 (4) (a) 3., 813.12 (4) (c) 1., 813.12 (4) (c) 2., 814.61 (1) (e), 814.70
 6 (1), 814.70 (3) (intro.) and 895.75 (1) (a); and to create 813.12 (1) (a) 5., 813.12
 7 (1) (a) 6., 813.12 (1) (a) 7., 813.12 (1) (eg), 813.12 (1) (am), 813.12 (1) (bm), 813.12
 8 (1) (cg), 813.12 (1) (ej), 813.12 (1) (cm), 813.12 (5) (d) and 813.12 (5) (e) of the
 9 statutes; relating to: domestic abuse restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

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

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

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

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106.50 (5m) (d) Nothing in this section requires that housing be made available to an individual whose tenancy would constitute a direct threat to the safety of other tenants or persons employed on the property or whose tenancy would result in substantial physical damage to the property of others, if the risk of direct threat or damage cannot be eliminated or sufficiently reduced through reasonable accommodations. A claim that an individual's tenancy poses a direct threat or a substantial risk of harm or damage must be evidenced by behavior by the individual which that caused harm or damage, which that directly threatened harm or damage, or which that caused a reasonable fear of harm or damage to other tenants, persons employed on the property, or the property. No claim that an individual's tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property may be based on the fact that a tenant has been or may be the victim of domestic abuse, as defined in s. 818.12 (1) (e) (am).

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

767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 818.12 (1) (e) (am).

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

767.11 (10) (e) 2. There is evidence of interspousal battery as described under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 818.12 (1) (e) (am).

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

767.24 (1m) (b) Where the parent lives currently and where the parent intends to live during the next 2 years. If there is evidence that the other parent engaged in interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 818.12 (1) (e) (am), with respect to the parent providing the parenting plan, the parent providing the parenting plan is not required to disclose the specific

1 address but only a general description of where he or she currently lives and intends
2 to live during the next 2 years.

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

4 767.24 (1m) (c) Where the parent works and the hours of employment. If there
5 is evidence that the other parent engaged in interspousal battery, as described under
6 s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 818.12 (1) (a) (am), with
7 respect to the parent providing the parenting plan, the parent providing the
8 parenting plan is not required to disclose the specific address but only a general
9 description of where he or she works.

10 SECTION 6. 767.24 (1m) (c) of the statutes is amended to read:

11 767.24 (1m) (c) If there is evidence that either party engaged in interspousal
12 battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined
13 in s. 818.12 (1) (a) (am), with respect to the other party, how the child will be
14 transferred between the parties for the exercise of physical placement to ensure the
15 safety of the child and the parties.

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

17 767.24 (2) (b) 2. c. The parties will not be able to cooperate in the future decision
18 making required under an award of joint legal custody. In making this finding the
19 court shall consider, along with any other pertinent items, any reasons offered by a
20 party objecting to joint legal custody. Evidence that either party engaged in abuse,
21 as defined in s. 818.122 (1) (a), of the child, as defined in s. 48.02 (2), or evidence of
22 interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse,
23 as defined in s. 818.12 (1) (a) (am), creates a rebuttable presumption that the parties
24 will not be able to cooperate in the future decision making required.

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

1 767.24 (5) (i) Whether there is evidence of interspousal battery as described
2 under s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 818.12 (1) (am).

3 SECTION 9. 818.12 (1) (a) (intro.) of the statutes is amended to read:

4 818.12 (1) (a) (intro.) ^{"Domestic Abuse"} ~~"Domestic abuse"~~ ~~"Abusive conduct"~~ means any of the
5 following engaged in by an adult family member or adult household member against
6 another adult family member or adult household member, by an adult against his or
7 her adult former spouse or by an adult against an adult with whom the person has
8 a child in common:

No -
see 818.12
(1)(am)

9 SECTION 10. 818.12 (1) (a) 4. of the statutes is renumbered 818.12 (1) (a) 8. and
10 amended to read:

11 818.12 (1) (a) 8. A threat to engage in the conduct under subd. 1., 2. or 3., 5.
12 6., or 7.

4? = no, moved
to 8.

13 SECTION 11. 818.12 (1) (a) 5. of the statutes is created to read:

14 818.12 (1) (a) 5. A violation of s. 940.01, involving property that belongs to the
15 individual that is the subject of the abusive behavior.

16 SECTION 12. 818.12 (1) (a) 6. of the statutes is created to read:

17 818.12 (1) (a) 6. A violation of s. 951.02, involving an animal that belongs to the
18 individual that is the subject of the abusive behavior.

19 SECTION 13. 818.12 (1) (a) 7. of the statutes is created to read:

20 818.12 (1) (a) 7. Financial exploitation.

21 SECTION 14. 818.12 (1) (ag) of the statutes is created to read:

22 818.12 (1) (ag) "Caregiver" means an individual who is a provider of in-home
23 and community care to an individual through regular and direct contact.

24 SECTION 15. 818.12 (1) (am) of the statutes is created to read:

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SEN BRIAN BURKE
- 5 -

PAGE 18
RPN:hmbj
SECTION 16

Defuse

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818.12 (1) (am) "Domestic abuse" means ~~abusive conduct that occurs in the~~
adults;
following situations:

- 1. By an adult family member against another adult family member.
- 2. By an adult household member against another adult household member.
- 3. By an adult against his or her adult former spouse.
- 4. By an adult against an adult with whom the individual has a child in common.
- 5. By *an adult* caregiver against *an* adult *under his/her* receiving the care.
- 6. By an adult against an adult with whom the individual had a *was or date* romantic relationship.

SECTION 16. 818.12 (1) (bm) of the statutes is created to read:

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

- 1. Obtaining an individual's money or property by deceiving or enticing the individual.
- 2. Forcing, compelling, or coercing an individual to give, sell at less than fair market value, or in other ways convey, money or property against the individual's will or without the individual's informed consent.
- 3. Taking, carrying away, using, transferring, concealing, or retaining possession of an individual's money or property without the individual's informed consent.

SECTION 17. 818.12 (1) (cg) of the statutes is created to read:

818.12 (1) (cg) "Reasonable grounds" means *more likely than* a particularized and objective reason, supported by specific and credible facts, for the belief that a specific event has occurred or will occur.

SECTION 18. 818.12 (1) (q) of the statutes is created to read:

2001 - 2002 Legislature

SECTION 18
RPN:hmbjif

by a con aver

1 813.12 (1) (c) "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 (1) (cm) of the statutes is created to read:

4 813.12 (1) (cm) ^{*dating*} "Romantic relationship" means a relationship between 2 adult ^{*social*}
5 individuals ~~that consists of an affectionate or intimate association between the 2~~ *who are or have been in a romantic or intimate*
6 ~~individuals.~~ ^{*dating*} A court shall determine if a ~~romantic~~ relationship existed by
7 considering the length of the relationship, the type of the relationship, and the
8 frequency of interaction between the individuals involved in the relationship.

9 SECTION 20. 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*} the petition as a class 1 notice, under ch. 985, and by
20 ^{*or sending a facsimile*} mailing if the respondent's post-office address ^{*or facsimile number*} is known or can with due diligence be
21 ^{*or sending by facsimile*} ascertained. * The mailing ^{*or sending by facsimile*} may be omitted if the post-office address cannot be
22 ascertained with due diligence. ^{*A "summary" includes the names of the respondent and*}
23 ^{*and notice of date, time and place of the injunction -*}

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

25 813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a
temporary restraining order ordering the respondent to refrain from committing acts

1 of domestic abuse against the petitioner, to avoid the petitioner's residence, except
2 as provided in par. (am), or any ^{public or private} premises ~~other location~~ temporarily occupied by the
3 petitioner or both, or to avoid contacting or causing any person other than a party's
4 attorney or a law enforcement officer to contact the petitioner unless the petitioner
5 consents in writing, or any combination of these remedies requested in the petition,
6 if all of the following occur:

7 SECTION 22. 813.12 (3) (a) 2. of the statutes is amended to read:

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

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

21 SECTION 23. 813.12 (3) (c) of the statutes is amended to read:

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

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- 8 -

1 an injunction within 7 14 days after the temporary restraining order is issued, unless
2 the time is extended upon the written consent of the parties or extended once for 14
3 days upon a finding that the respondent has not been served with a copy of the
4 temporary restraining order although the petitioner has exercised due diligence.

5 SECTION 24. 813.12 (4) (a) (intro.) of the statutes is amended to read:

6 813.12 (4) (a) (intro.) A judge or family court commissioner may grant an
7 injunction ordering the respondent to refrain from committing acts of domestic abuse
8 against the petitioner, to avoid the petitioner's residence, except as provided in par.
9 (am), or any ~~premises~~ ^{public or private} other location temporarily occupied by the petitioner or both,
10 or to avoid contacting or causing any person other than a party's attorney or a law
11 enforcement officer to contact the petitioner unless the petitioner consents to that
12 contact in writing, or any combination of these remedies requested in the petition,
13 if all of the following occur:

14 SECTION 25. 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 ~~of the petition~~
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 26. 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 (a) 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, of any other court order that bars contact between the parties, ^{nor due to} or
 7 necessity of verifying the terms of an existing court order.

8 SECTION 27. 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 by the admittance of the
 12 respondent into a dwelling that the injunction directs him or her to avoid.

13 SECTION 28. 813.12 (4) (c) 2. of the statutes is amended to read:

14 813.12 (4) (c) 2. When an injunction granted for less than 24 years expires, the
 15 court shall extend the injunction if the petitioner states that an extension is
 16 necessary to protect him or her. This extension shall remain in effect until 24 years
 17 after the date the court first entered the injunction.

18 SECTION 29. 813.12 (5) (d) of the statutes is created to read:

19 813.12 (5) (d) A petition may be prepared and filed by the person who alleges
 20 that he or she has been the subject of domestic abuse or by the guardian, as defined
 21 in s. 880.01 (3), of an incompetent individual, as defined in s. 380.01 (4), who has been
 22 the subject of domestic abuse.

23 SECTION 30. 813.12 (5) (e) of the statutes is created to read:

24 813.12 (5) (e) Upon the petitioner's request, the judge or family court
 25 commissioner shall order that information maintained by the court regarding the

make
 consist
 * 813.125 (5)

CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition
 under sub. (5) (a) and the court order under sub. (3)
 (4) shall not disclose the address of the alleged
 victim.

~~petitioner's location or residence be confidential and be disclosed only to court personnel or law enforcement agencies for the purpose of service of process, conducting an investigation, or enforcing an order.~~

SECTION 81. 814.61 (1) (e) of the statutes is amended to read:

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

SECTION 82. 814.70 (1) of the statutes is amended to read:

814.70 (1) SERVICE OF PROCESS. For each service or attempted service of a summons or any other process for commencement of an action, a writ, an order of injunction, a subpoena, or any other order, \$12 for each defendant or person. If there is more than one defendant or person to be served at a given address, \$6 for each additional defendant or person. No fee charged under this subsection in any action commenced under s. 813.12, 813.122, or 813.123 may be collected from a petitioner under s. 813.12, 813.122, or 813.123. The fee charged under this subsection in any action commenced under s. 813.12, 813.122, 813.123, or 813.125 shall be collected from the respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4), 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4). No fee charged under this

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

9 SECTION 33. 814.70 (3) (intro.) of the statutes is amended to read:

10 814.70 (3) (intro.) For travel in serving any summons, writ or other process,
 11 except criminal warrants, and except that a fee under this subsection in any action
 12 commenced under s. 813.12, 813.122, or 813.123 may not be collected from a
 13 petitioner but shall be collected from the respondent if he or she is convicted of
 14 violating a temporary restraining order or injunction issued under a. 813.12 (3) or (4),
 15 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4), and except that a fee under
 16 this subsection in any action commenced under s. 813.125 may not be collected from
 17 a petitioner if the petition alleges conduct that is the same as or similar to conduct
 18 that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (a) 1. to ~~4~~ 3, but shall
 19 be collected from the respondent if he or she is convicted of violating a temporary
 20 restraining order or injunction issued under s. 813.125 (3) or (4);

21 SECTION 34. 895.73 (1) (a) of the statutes is amended to read:

22 895.73 (1) (a) ~~Abusive conduct~~ means "domestic abuse," as defined under s.
 23 46.95 (1) (a), 813.12 (1) (a) (am), or 956.075 (1) (a), harassment, as defined under s.
 24 813.125 (1), sexual exploitation by a therapist under a. 940.22, sexual assault under

1 s. 940.225, child abuse, as defined under s. 813.122 (1)(a), or child abuse under ss.
2 948.02 to 948.11.

3 **SECTION 35. Initial applicability.**

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

6 (END)