



D-Note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

OTHER

Re-Generate

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 (o), 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 895.73 (1) (a); and *to create* 813.12 (1) (a) 5., 813.12
7 (1) (a) 6., 813.12 (1) (a) 7., 813.12 (1) (ag), 813.12 (1) (am), 813.12 (1) (bm), 813.12
8 (1) (cg), 813.12 (1) (cj), 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:

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

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

15 767.11 (8) (b) 2. Interspousal battery as described under s. 940.19 or 940.20
16 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

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

18 767.11 (10) (e) 2. There is evidence of interspousal battery as described under
19 s. 940.19 or 940.20 (1m) or domestic abuse as defined in s. 813.12 (1) ~~(a)~~ (am).

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

21 767.24 (1m) (b) Where the parent lives currently and where the parent intends
22 to live during the next 2 years. If there is evidence that the other parent engaged in
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), with respect to the parent providing the parenting
25 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. 813.12 (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) (o) of the statutes is amended to read:

11 767.24 (1m) (o) 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. 813.12 (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. 813.122 (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. 813.12 (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. 813.12 (1) ~~(a)~~ (am).

3 **SECTION 9.** 813.12 (1) (a) (intro.) of the statutes is amended to read:

4 813.12 (1) (a) (intro.) ~~"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:~~

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

11 813.12 (1) (a) 8. A threat to engage in the conduct under subd. 1., 2. or, 3., 5.,
12 6., or 7.

13 **SECTION 11.** 813.12 (1) (a) 5. of the statutes is created to read:

14 813.12 (1) (a) 5. A violation of s. 943.01, involving property that belongs to the
15 individual that is the subject of the abusive behavior.

16 **SECTION 12.** 813.12 (1) (a) 6. of the statutes is created to read:

17 813.12 (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.** 813.12 (1) (a) 7. of the statutes is created to read:

20 813.12 (1) (a) 7. Financial exploitation.

(21) **SECTION 14.** 813.12 (1) (a)^d of the statutes is created to read:

(22) 813.12 (1) (a)^d "Caregiver" means an individual who is a provider of in-home
23 and community care to an individual through regular and direct contact.

from
p 6, 15, 3-8
24 → **SECTION 15.** 813.12 (1) (am) of the statutes is created to read:

1 813.12 (1) (am) "Domestic abuse" means abusive conduct that occurs in the
2 following situations:

- 3 1. By an adult family member against another adult family member.
- 4 2. By an adult household member against another adult household member.
- 5 3. By an adult against his or her adult former spouse.
- 6 4. By an adult against an adult with whom the individual has a child in
7 common.

8 5. By ^{an adult who is under the caretaker's} a caregiver against ~~the~~ ^{an} adult ~~receiving the~~ care.

9 6. By an adult against an adult with whom the individual) had a ^{has or} ~~romantic~~ ^{dating} relationship.

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 ~~a particularized and objective~~
23 ~~reason, supported by specific and articulable facts, for the belief~~ ^{more likely than not} that a specific event
24 has occurred or will occur.

25 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 10.~~ [#] 813.12 (1) ^{ag} ~~(cm)~~ of the statutes is created to read:

4 813.12 (1) (cm) ^{dating} ~~romantic~~ relationship" means a ^{social} relationship between 2 adult
5 individuals that ^{involves a romantic} ~~consists of an affectionate~~ or intimate association ~~between the 2~~
6 ~~individuals~~. A court shall determine if a ^{dating} ~~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 the petition as a class 1 notice, under ch. 985, and by
20 or sending a facsimile ^{a summary of} or facsimile number mailing if the respondent's post-office address is known or can with due diligence be
21 ascertained. ^{or sending of a facsimile} The mailing may be omitted if the post-office address cannot be
22 ascertained with due diligence.

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

24 813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a
25 temporary restraining order ordering the respondent to refrain from committing acts

move to P 41 line 734

A summary of the petition published as a class 1 notice shall include the name of the respondent and of the petitioner, notice of the temporary restraining order, and notice of the date, time, and place of the hearing regarding the injunction.

1 of domestic abuse against the petitioner, to avoid the petitioner's residence, except
2 as provided in par. (am), or any 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 (aj) 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^{or} of any other court order that bars contact
19 between the parties, ~~or~~ ^{nor due to} 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

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~~ 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 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 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 (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} or of the
 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 2 4 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 2 4 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 2 4 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. 880.01 (4), who has been
 22 the subject of domestic abuse.

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

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

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

4 **SECTION 31.** 814.61 (1) (e) of the statutes is amended to read:

5 814.61 (1) (e) No fee charged under this subsection in any action commenced
 6 under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.
 7 813.122, 813.123, or 813.125 if the petition alleges conduct that is the same as or
 8 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (a)
 9 1. to ~~4.~~ 8. If no fee is collected under this paragraph, the fee charged under this
 10 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall
 11 be collected from the respondent under s. 813.122, 813.123, or 813.125 if he or she
 12 is convicted of violating a temporary restraining order or injunction issued under s.
 13 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).

14 **SECTION 32.** 814.70 (1) of the statutes is amended to read:

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

Inserts
 10-3a
 10-3b
 10-3c

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.~~ 8. 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 s. 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.~~ 8. 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 968.075 (1) (a), harassment, as defined under s.
24 813.125 (1), sexual exploitation by a therapist under s. 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)

Insert 10-3a

Section #. ~~813.125 (5m)~~ of the statutes is amended to read:

~~813.125 (5m)~~ CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5) and the court order under sub. (3) or (4) shall not disclose the address of the alleged victim.

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306.

Inserts 10-3b & 10-3c

RE: Drafter's question about CONSTRUCTIVE KNOWLEDGE... we suggest the following:

SEC # 813.12 (7) (c) of the statutes is created to read

~~Add to 813.12(7)(c) ARREST~~

A respondent who does not appear at a hearing at which the court orders an injunction under 813.12(4) but who has been served with a copy of the petition and notice of the time for hearing under 813.12(3) has constructive knowledge of the existence of the injunction and shall be arrested for violation of the injunction regardless of whether service of the injunction under 813.12(4) has yet occurred.

SECTION # 813.12 (6) (d) of the statutes is created to read:

Could we also add to 813.12(6)(d) The issuance of an order under 813.12(3) or (4) takes precedence over any other criminal or civil law no contact order.

he or she has been served with a copy of

insert 10-3c

insert 10-3b

LRB-3191/P2

RPN:hml

D. Note

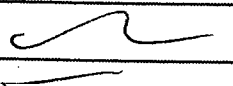
Date ^{make}

I did not fall of the changes suggested.

As mentioned in my earlier Drafter's Note, the definition of "domestic abuse" was very ^{cumbersome} ~~cumbersome~~ so I broke it into the behavior, "abuse conduct" and those who commit the abuse. I kept that language in the draft.

I did not add "public or private" before "location" because in sections §13.12 (3)(a) (intro.) and (4)(a) (intro.) because they add nothing. "Location" includes all public and private locations.

Please review this draft and let me know if I should prepare a draft that can be introduced.

RPN


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

LRB-3191/P2dn
RPN:hmh.pg

July 17, 2001

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Please review this draft and let me know if I should prepare a draft that can introduced.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

Nelson, Robert P.

From: Bjork, Tanya
Sent: Wednesday, July 18, 2001 11:52 AM
To: Nelson, Robert P.
Subject: LRB 3191

Thanks for your work on this.

The domestic violence advocates feel very strongly that we use the current definition "domestic abuse" and not as you break it down into the behavior and those who commit the abuse. Please change this.

The "public or private" language is fine.

Thanks.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3191/PZ³

RPN:hmh:pg

Stays

OTHER

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Regenerate

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9 and 813.12 (7) (c) of the statutes; **relating to:** domestic abuse restraining
10 orders and injunctions.

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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.) of the statutes is amended to read:

5 813.12 (1) (a) (intro.) ~~“Domestic abuse”~~ “Abusive conduct” means any of the
6 following engaged in by an adult family member or adult household member against
7 another adult family member or adult household member, by an adult against his or
8 her adult former spouse or by an adult against an adult with whom the person has
9 a child in common:

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

insert
4-13

12 813.12 (1) (a) 8. A threat to engage in the conduct under subd. 1., 2. or 3., 5.,
13 6., or 7.

14 SECTION 11. 813.12 (1) (a) 5. of the statutes is created to read:

15 813.12 (1) (a) 5. A violation of s. 943.01, involving property that belongs to the
16 individual that is the subject of the abusive behavior.

17 SECTION 12. 813.12 (1) (a) 6. of the statutes is created to read:

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19 individual that is the subject of the abusive behavior.

20 SECTION 13. 813.12 (1) (a) 7. of the statutes is created to read:

21 813.12 (1) (a) 7. Financial exploitation.

22 SECTION 14. 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 and community care to an individual through regular and direct contact.

25 SECTION 15. 813.12 (1) (ag) of the statutes is created to read:

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 interaction between
5 the individuals involved in the relationship.

6 ~~SECTION 16. 813.12 (1) (am) of the statutes is created to read:~~

7 ~~813.12 (1) (am) "Domestic abuse" means abusive conduct that occurs in the~~
8 ~~following situations:~~

- 9 ~~1. By an adult family member against another adult family member.~~
- 10 ~~2. By an adult household member against another adult household member.~~
- 11 ~~3. By an adult against his or her adult former spouse.~~
- 12 ~~4. By an adult against an adult with whom the individual has a child in~~
13 ~~common.~~
- 14 ~~5. By an adult caregiver against an adult who is under the caretaker's care.~~
- 15 ~~6. By an adult against an adult with whom the individual has or had a dating~~
16 ~~relationship.~~

17 SECTION 17. 813.12 (1) (bm) of the statutes is created to read:

18 813.12 (1) (bm) "Financial exploitation" means any of the following:

- 19 1. Obtaining an individual's money or property by deceiving or enticing the
20 individual.
- 21 2. Forcing, compelling, or coercing an individual to give, sell at less than fair
22 market value, or in other ways convey, money or property against the individual's
23 will or without the individual's informed consent.

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

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

5 813.12 (1) (cg) "Reasonable grounds" means more likely than not that a specific
6 event has occurred or will occur.

7 **SECTION 19.** 813.12 (1) (cj) of the statutes is created to read:

8 813.12 (1) (cj) "Regular and direct contact" means face-to-face physical
9 proximity to an individual that is planned, scheduled, expected, or periodic.

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

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

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

3 **SECTION 21.** 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 if all of the following occur:

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

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

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

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

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

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

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

19 **SECTION 25.** 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 26.** 813.12 (4) (a) 3. of the statutes is amended to read:

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 27.** 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 by the admittance of the
18 respondent into a dwelling that the injunction directs him or her to avoid.

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

20 813.12 (4) (c) 2. When an injunction granted for less than 2 4 years expires, the
21 court shall extend the injunction if the petitioner states that an extension is
22 necessary to protect him or her. This extension shall remain in effect until 2 4 years
23 after the date the court first entered the injunction.

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

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 30.** 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 31.** 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) takes
11 precedence over any other criminal or civil law no contact order.

12 **SECTION 32.** 813.12 (7) (c) of the statutes is created to read:

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

19 **SECTION 33.** 814.61 (1) (e) of the statutes is amended to read:

20 814.61 (1) (e) No fee charged under this subsection in any action commenced
21 under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.
22 813.122, 813.123, or 813.125 if the petition alleges conduct that is the same as or
23 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~ ^(am)
24 1. to ~~4.~~ 8. If no fee is collected under this paragraph, the fee charged under this
25 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall

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

4 **SECTION 34.** 814.70 (1) of the statutes is amended to read:

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

24 **SECTION 35.** 814.70 (3) (intro.) of the statutes is amended to read:

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3191/P3ins
RPN:hmh:pg

1 insert 4-13:

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

5 813.12 (1) (am) (intro.) "Domestic abuse" means any of the following engaged
6 in by an adult family member or adult household member against another adult
7 family member or adult household member, by an adult caregiver against an adult
8 who is under the ^{caregiver's} ~~caretaker's~~ care, by an adult against his or her adult former spouse,
9 by an adult against an adult with whom the individual has or had a dating
10 relationship, or by an adult against an adult with whom the person has a child in
11 common:

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

13 SECTION 2. 813.12 (1) (a) 4. of the statutes is renumbered 813.12 (1) (am) 8. and
14 amended to read:

15 813.12 (1) (am) 8. A threat to engage in the conduct under subd. 1., 2. ~~or~~ 3., 5.
6., or 7.

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



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D - No Fe

This draft rearranges the sections in their proper order. No language has been changed.

RPN

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 (o), 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 895.73 (1) (a); and to create 813.12 (1) (a) 5., 813.12
7 (1) (a) 6., 813.12 (1) (a) 7., 813.12 (1) (ad), 813.12 (1) (ag), 813.12 (1) (am), 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

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:

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
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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:

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13 battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined
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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
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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
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2 767.24 (5) (i) Whether there is evidence of interspousal battery as described
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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
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7 813.12 (1) (am) (intro.) "Domestic abuse" means any of the following engaged
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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,
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insert from next page

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25 813.12 (1) (am) 7. Financial exploitation.

more
to page 4, line 17

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5 813.12 (1) (ag) "Dating relationship" means a social relationship between 2
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7 determine if a dating relationship existed by considering the length of the
8 relationship, the type of the relationship, and the frequency of interaction between
9 the individuals involved in the relationship.

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

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

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21 813.12 (1) (cg) "Reasonable grounds" means more likely than not that a specific
22 event has occurred or will occur.

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

24 813.12 (1) (cj) "Regular and direct contact" means face-to-face physical
25 proximity to an individual that is planned, scheduled, expected, or periodic.

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

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

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

20 813.12 (3) (a) (intro.) A judge or family court commissioner shall issue a
21 temporary restraining order ordering the respondent to refrain from committing acts
22 of domestic abuse against the petitioner, to avoid the petitioner's residence, except
23 as provided in par. (am), or any ~~premises~~ other location temporarily occupied by the
24 petitioner or both, or to avoid contacting or causing any person other than a party's
25 attorney or a law enforcement officer to contact the petitioner unless the petitioner

1 consents in writing, or any combination of these remedies requested in the petition,
2 if all of the following occur:

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

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

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

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

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

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

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

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

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

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

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

20 (a) In determining whether to issue an injunction, the judge or family court
21 commissioner shall consider the potential danger posed to the petitioner and the
22 pattern of abusive conduct of the respondent but may not base his or her decision
23 solely on the length of time since the last domestic abuse or the length of time since
24 the relationship ended. The judge or family court commissioner may grant only the
25 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 or of any other court order that bars contact between the parties, nor due to
3 the necessity of verifying the terms of an existing court order.

4 **SECTION 26.** 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 **SECTION 27.** 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 **SECTION 28.** 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 29.** 813.12 (5m) of the statutes is created to read:

20 813.12 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)
21 and the court order under sub. (3) or (4) shall not disclose the address of the alleged
22 victim.

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

24 813.12 (6) (d) The issuance of an order under s. 813.12 (3) or (4) takes
25 precedence over any other criminal or civil law no contact order.

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

2 813.12 (7) (c) A respondent who does not appear at a hearing at which the court
3 orders an injunction under s. 813.12 (4) but who has been served with a copy of the
4 petition and notice of the time for hearing under s. 813.12 (3) has constructive
5 knowledge of the existence of the injunction and shall be arrested for violation of the
6 injunction regardless of whether he or she has been served with a copy of the
7 injunction.

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

9 814.61 (1) (e) No fee charged under this subsection in any action commenced
10 under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.
11 813.122, 813.123, or 813.125 if the petition alleges conduct that is the same as or
12 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (~~a~~)
13 (am) 1. to ~~4.~~ 8. If no fee is collected under this paragraph, the fee charged under this
14 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall
15 be collected from the respondent under s. 813.122, 813.123, or 813.125 if he or she
16 is convicted of violating a temporary restraining order or injunction issued under s.
17 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).

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

19 814.70 (1) SERVICE OF PROCESS. For each service or attempted service of a
20 summons or any other process for commencement of an action, a writ, an order of
21 injunction, a subpoena, or any other order, \$12 for each defendant or person. If there
22 is more than one defendant or person to be served at a given address, \$6 for each
23 additional defendant or person. No fee charged under this subsection in any action
24 commenced under s. 813.12, 813.122, or 813.123 may be collected from a petitioner
25 under s. 813.12, 813.122, or 813.123. The fee charged under this subsection in any

1 action commenced under s. 813.12, 813.122, 813.123, or 813.125 shall be collected
2 from the respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of
3 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),
4 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4). No fee charged under this
5 subsection in any action commenced under s. 813.125 may be collected from a
6 petitioner under s. 813.125 if the petition alleges conduct that is the same as or
7 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~
8 (am) 1. to ~~4.~~ 8. If no fee is collected under this subsection from a petitioner under
9 s. 813.125, the fee charged under this subsection in any action commenced under s.
10 813.125 shall be collected from the respondent under s. 813.125 if he or she is
11 convicted of violating a temporary restraining order or injunction issued under s.
12 813.125 (3) or (4).

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

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

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3191/P4dn
RPN:hmh:ch

July 22, 2001

This draft rearranges the sections in their proper order. No language has been changed.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.state.wi.us

Nelson, Robert P.

From: Heringlake, Katherine
Sent: Monday, September 17, 2001 9:25 AM
To: Nelson, Robert P.
Subject: RE: LRB3191

Yes, Please make changes based on that e-mail.
Katy

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

From: Nelson, Robert P.
Sent: Monday, September 17, 2001 9:06 AM
To: Heringlake, Katherine
Subject: RE: LRB3191

I received a copy of an e-mail from Patti Seger to Tanya Bjork, with a copy to you, without any instructions to make any changes based on that e-mail. That message came while I was on vacation, so I left it in my message inbox. Do you want me to make the changes suggested by that e-mail?

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

From: Heringlake, Katherine
Sent: Friday, September 14, 2001 9:34 AM
To: Nelson, Robert P.
Subject: LRB3191

I am taking over the 3191 for Burke's office. Patti Seger thought that we should be almost ready to go on a final draft.

Could you let me know when you think it will be ready.

Thanks,

Katy Heringlake

Nelson, Robert P.

From: Patti Seger [pattis@inxpress.net]
Sent: Tuesday, August 21, 2001 10:21 AM
To: Nelson, Robert P.
Subject: Fw: Restraining order language

Hi Robert,
This is the email I sent to Tanya yesterday...
Patti

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

From: "Patti Seger" <pattis@inxpress.net>
To: "Bjork, Tanya" <Tanya.Bjork@legis.state.wi.us>
Sent: Monday, August 20, 2001 9:14 AM
Subject: Restraining order language

Hi Tanya,

After careful review of the updated version of the restraining order draft, I have the following:

1-The first version of the draft included language that would allow a guardian to apply for a restraining order on behalf of an incompetent adult but this language got dropped out in the second draft. P

2-A Milwaukee Fam. Court Commissioner suggests the following (and we concur that it would be good) -- On page 9 of the draft, line 9, could this line read as follows: An injunction granted under this subsection is not voided by the admittance of the respondent into a dwelling that the injunction directs her or her to avoid, nor if the petitioner allows or initiates contact with the respondent. ✓

3-After discussion, we worried that although we requested the following section on page 10, lines 1-2 ...it may be too controversial so we are requesting that a better way (i.e., less controversial!) to word the language is as follows:

813.12(6)(d) The issuance of any order under s. 813.12 (3) or (4) is enforceable despite the existence of any other criminal or civil law order restricting contact. ✓

4-And finally, can we add one more tiny thing that is a bit of a clean-up to our current law? It was just brought to my attention today that although the state issued restraining order forms have a section that allows judges to write in other appropriate relief on the order, our law only allows the judge to order specific relief....so judges never add other relief that could be appropriate or useful (an example given was "ordering the respondent to return the petitioners passport, birth certificate, or other documentation")...

so we are wondering if we can simply add to the list of remedies a judge can order under 813.12(3)(a) and 813.12(4)(a) language like "...any other appropriate remedies..." just before the language that begins "...or any combination of these remedies..." ✓

If we can get these few changes, I think we are good to go!

Yahoo!
Patti

Nelson, Robert P.

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.



01-3191/P4



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3191/P4

RPN:hmh:ch

OTHER

stays

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.

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:

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 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.

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 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 if all of the following occur: *or any other appropriate remedy not inconsistent with the remedies requested in the petition,*

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

6 813.12 (3) (a) 2. The judge or family court commissioner finds reasonable
7 grounds to believe that the respondent has engaged in, or based on prior conduct of
8 the petitioner and the respondent may engage in, domestic abuse of the petitioner.

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

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

20 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
21 on issuance of an injunction under sub. (4). The temporary restraining order is not
22 voided if the respondent is admitted into a dwelling that the order directs him or her
23 to avoid. A judge or family court commissioner shall hold a hearing on issuance of
24 an injunction within 7 14 days after the temporary restraining order is issued, unless
25 the time is extended upon the written consent of the parties or extended once for 14

1 days upon a finding that the respondent has not been served with a copy of the
2 temporary restraining order although the petitioner has exercised due diligence.

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

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

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

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

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

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

22 (aj) In determining whether to issue an injunction, the judge or family court
23 commissioner shall consider the potential danger posed to the petitioner and the
24 pattern of abusive conduct of the respondent but may not base his or her decision
25 solely on the length of time since the last domestic abuse or the length of time since

if the petitioner allows or initiates contact with the respondent or

1 the relationship ended. The judge or family court commissioner may grant only the
2 remedies requested by the petitioner. The judge or family court commissioner may
3 not dismiss or deny granting an injunction because of the existence of a pending
4 action or of any other court order that bars contact between the parties, nor due to
5 the necessity of verifying the terms of an existing court order.

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

7 813.12 (4) (c) 1. An injunction under this subsection is effective according to its
8 terms, for the period of time that the petitioner requests, but not more than 24 years.

9 An injunction granted under this subsection is not voided by the admittance of the
10 respondent into a dwelling that the injunction directs him or her to avoid.

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

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

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

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

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

22 813.12 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)
23 and the court order under sub. (3) or (4) shall not disclose the address of the alleged
24 victim.

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

1 813.12 (6) (d) The issuance of an order under s. 813.12 (3) or (4) ~~takes~~
2 *is enforceable despite the existence of*
3 ~~precedence over~~ any other criminal or civil ~~law no contact~~ order. *restricting or*
4 *prohibiting contact*

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

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

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

11 814.61 (1) (e) No fee charged under this subsection in any action commenced
12 under s. 813.122, 813.123, or 813.125 may be collected from a petitioner under s.
13 813.122, 813.123, or 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 paragraph, the fee charged under this
16 subsection for petitions filed and granted under s. 813.122, 813.123, or 813.125 shall
17 be collected from the respondent under s. 813.122, 813.123, or 813.125 if he or she
18 is convicted of violating a temporary restraining order or injunction issued under s.
19 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).

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

21 814.70 (1) SERVICE OF PROCESS. For each service or attempted service of a
22 summons or any other process for commencement of an action, a writ, an order of
23 injunction, a subpoena, or any other order, \$12 for each defendant or person. If there
24 is more than one defendant or person to be served at a given address, \$6 for each
25 additional defendant or person. No fee charged under this subsection in any action

1 commenced under s. 813.12, 813.122, or 813.123 may be collected from a petitioner
2 under s. 813.12, 813.122, or 813.123. The fee charged under this subsection in any
3 action commenced under s. 813.12, 813.122, 813.123, or 813.125 shall be collected
4 from the respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of
5 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),
6 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4). No fee charged under this
7 subsection in any action commenced under s. 813.125 may be collected from a
8 petitioner under s. 813.125 if the petition alleges conduct that is the same as or
9 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~
10 (am) 1. to ~~4.~~ 8. If no fee is collected under this subsection from a petitioner under
11 s. 813.125, the fee charged under this subsection in any action commenced under s.
12 813.125 shall be collected from the respondent under s. 813.125 if he or she is
13 convicted of violating a temporary restraining order or injunction issued under s.
14 813.125 (3) or (4).

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

16 814.70 (3) (intro.) For travel in serving any summons, writ or other process,
17 except criminal warrants, and except that a fee under this subsection in any action
18 commenced under s. 813.12, 813.122, or 813.123 may not be collected from a
19 petitioner but shall be collected from the respondent if he or she is convicted of
20 violating a temporary restraining order or injunction issued under s. 813.12 (3) or (4),
21 813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4), and except that a fee under
22 this subsection in any action commenced under s. 813.125 may not be collected from
23 a petitioner if the petition alleges conduct that is the same as or similar to conduct
24 that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) ~~(a)~~ (am) 1. to ~~4.~~ 8. but

1 shall be collected from the respondent if he or she is convicted of violating a
2 temporary restraining order or injunction issued under s. 813.125 (3) or (4):

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

4 895.73 (1) (a) "Abusive conduct" means domestic abuse, as defined under s.
5 46.95 (1) (a), 813.12 (1) ~~(a)~~ (am), or 968.075 (1) (a), harassment, as defined under s.
6 813.125 (1), sexual exploitation by a therapist under s. 940.22, sexual assault under
7 s. 940.225, child abuse, as defined under s. 813.122 (1) (a), or child abuse under ss.
8 948.02 to 948.11.

9 **SECTION 36. Initial applicability.**

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

12 (END)