

ASSEMBLY BILL 636 (LRB -2652)

An Act to amend 813.125 (3) (a) 2., 813.125 (3) (c), 813.125 (4) (a) 3., 813.125 (4) (c), 813.125 (5) (a) 3., 814.61 (1) (d) and 814.61 (1) (e); and to create 813.125 (1) (c) and 813.125 (1) (d) of the statutes; relating to: harassment restraining orders. (FE)

2005

09-07.	A.	Introduced by Representatives Suder, Hundertmark, Bies, Vos, Musser, Albers, Hahn, Berceau, Fields, Shilling, Van Roy, Vruwink, Owens, Hines and Kreibich ; cosponsored by Senators Roessler and A. Lasee .	
08-30.	A.	Read first time and referred to committee on Criminal Justice and Homeland Security	443
09-02.	A.	Senator Brown added as a cosponsor	448
09-07.	A.	Assembly amendment 1 offered by Representative Kessler (LRB a0941)	450
09-07.	A.	Public hearing held.	
09-07.	A.	Executive action taken.	
09-08.	A.	Fiscal estimate received.	
09-09.	A.	Report Assembly Amendment 1 adoption recommended by committee on Criminal Justice and Homeland Security, Ayes 12, Noes 0	455
09-09.	A.	Report passage as amended recommended by committee on Criminal Justice and Homeland Security, Ayes 12, Noes 0	455
09-09.	A.	Referred to committee on Rules	455
09-22.	A.	Made a special order of business at 11:32 A.M. on 9-27-2005 pursuant to Assembly Resolution 38	479
09-27.	A.	Read a second time	502
09-27.	A.	Assembly amendment 1 adopted	502
09-27.	A.	Ordered to a third reading	503
09-27.	A.	Rules suspended	503
09-27.	A.	Read a third time and passed , Ayes 96, Noes 0	503
09-27.	A.	Ordered immediately messaged	503
09-30.	S.	Received from Assembly	382
09-30.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	384
11-10.	S.	Public hearing held.	
11-22.	S.	Executive action taken.	
12-02.	S.	Report concurrence recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0	471
12-02.	S.	Available for scheduling.	

2006

01-25.	S.	Placed on calendar 1-26-2006 by committee on Senate Organization.	
01-26.	S.	Read a second time.	
01-26.	S.	Ordered to a third reading.	
01-26.	S.	Rules suspended.	
01-26.	S.	Read a third time and concurred in .	
01-26.	S.	Ordered immediately messaged.	
01-26.	A.	Received from Senate concurred in.	

**2005
ENROLLED BILL**

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ADOPTED DOCUMENTS:

Orig Engr SubAmdt

05-2652/2

Amendments to above (if none, write "NONE"): AA1 = LRB 0941/1

Corrections - show date (if none, write "NONE"): None

Topic Relating

2-3-06 JR Miller
Date Enrolling Drafter

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2005 ASSEMBLY BILL 636

August 30, 2005 – Introduced by Representatives SUDER, HUNDERTMARK, BIES, VOS, MUSSER, ALBERS, HAHN, BERCEAU, FIELDS, SHILLING, VAN ROY, VRUWINK, OWENS, HINES and KREIBICH, cosponsored by Senators ROESSLER and A. LASEE. Referred to Committee on Criminal Justice and Homeland Security.

1 **AN ACT to amend** 813.125 (3) (a) 2., 813.125 (3) (c), 813.125 (4) (a) 3., 813.125 (4)
 2 (c), 813.125 (5) (a) 3., 814.61 (1) (d) and 814.61 (1) (e); and **to create** 813.125 (1)
 3 (c) and 813.125 (1) (d) of the statutes; **relating to:** harassment restraining
 4 orders.

INSERT AAI-1

Analysis by the Legislative Reference Bureau

Currently, the definition of “harassment” in criminal law and related to allowing a person to seek a harassment injunction are the same: subjecting a person to unwanted physical contact or committing acts that harass or intimidate another while serving no legitimate purpose. This bill expands the definition related to seeking an injunction to include acts that would constitute sexual assault, abuse, or stalking.

Under current law, in actions to obtain a restraining order and injunction against harassment, the judge is required to hold the hearing on the request for an injunction within seven days after the temporary restraining order is issued unless the time is extended with consent of the parties or extended for an additional seven days upon a finding that the person who is the subject of the restraining order has not been served with a copy of the restraining order although the petitioner has exercised due diligence in attempting to serve the order.

This bill changes those seven-day periods to 14 days.

Currently, most persons who commence a civil action pay a filing fee of \$75. However, if an action is commenced seeking a domestic abuse injunction, the fee is not collected from the petitioner. Instead, the fee is collected from the respondent if

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he or she is convicted of violating a domestic abuse injunction or temporary restraining order. If an action is commenced seeking a child abuse injunction, a vulnerable adult injunction, or a harassment injunction, the fee is not collected from the petitioner if the petition alleges that the respondent has committed certain acts, including intentional infliction of person injury to the petitioner, sexual assault, or stalking. In those cases, the fee is collected from the respondent if he or she is convicted of violating the injunction or temporary restraining order.

Under this bill, if an action is commenced seeking a child abuse injunction or a vulnerable adult injunction, the fee is not collected from the petitioner. Instead, the fee is collected from the respondent if he or she is convicted of violating a domestic abuse injunction or temporary restraining order. No change is made regarding the fees when petitioning for a harassment injunction.

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

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

INSERT AA1-2

INSERT AA1-3

1

~~SECTION 1.~~ 813.125 (1) (a) of the statutes is amended to read:

2

813.125 (1) (a) Striking, shoving, kicking or otherwise subjecting another person to physical contact; engaging in an act that would constitute abuse under s. 48.02 (1), sexual assault under s. 940.225, or stalking under s. 940.32; or attempting or threatening to do the same.

6

SECTION 2. 813.125 (3) (a) 2. of the statutes is amended to read:

7

813.125 (3) (a) 2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has ~~violated s. 947.013~~ engaged in harassment with intent to harass or intimidate the petitioner.

10

SECTION 3. 813.125 (3) (c) of the statutes is amended to read:

11

813.125 (3) (c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4). A judge or circuit court commissioner shall hold a hearing on issuance of an injunction within ~~7~~ 14 days after the temporary restraining order is issued, unless the time is extended upon the

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1 written consent of the parties or extended once for ~~7~~ 14 days upon a finding that the
2 respondent has not been served with a copy of the temporary restraining order
3 although the petitioner has exercised due diligence.

4 **SECTION 4.** 813.125 (4) (a) 3. of the statutes is amended to read:

5 813.125 (4) (a) 3. After hearing, the judge or circuit court commissioner finds
6 reasonable grounds to believe that the respondent has ~~violated s. 947.013~~ engaged
7 in harassment with intent to harass or intimidate the petitioner.

8 **SECTION 5.** 813.125 (4) (c) of the statutes is amended to read:

9 813.125 (4) (c) An injunction under this subsection is effective according to its
10 terms, but for not more than ~~2~~ 4 years.

11 **SECTION 6.** 813.125 (5) (a) 3. of the statutes is amended to read:

12 813.125 (5) (a) 3. That the respondent has ~~violated s. 947.013~~ engaged in
13 harassment with intent to harass or intimidate the petitioner.

14 **SECTION 7.** 814.61 (1) (d) of the statutes is amended to read:

15 814.61 (1) (d) No fee charged under this subsection in any action commenced
16 under s. 813.12, ~~813.122, or 813.123~~ may be collected from a petitioner under s.
17 ~~813.12, 813.122, or 813.123~~. The fee charged under this subsection for petitions filed
18 and granted under s. 813.12, ~~813.122, or 813.123~~ shall be collected from the
19 respondent under s. 813.12, ~~813.122, or 813.123~~ if he or she is convicted of violating
20 a temporary restraining order or injunction issued under s. 813.12 (3) or (4), ~~813.122~~
21 ~~(4) or (5), or 813.123 (4) or (5).~~

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

23 814.61 (1) (e) No fee charged under this subsection in any action commenced
24 under s. ~~813.122, 813.123, or 813.125~~ may be collected from a petitioner under s.
25 ~~813.122, 813.123, or 813.125~~ if the petition alleges conduct that is the same as or

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

7

(END)

**ASSEMBLY AMENDMENT 1,
TO 2005 ASSEMBLY BILL 636**

September 7, 2005 - Offered by Representative KESSLER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 3: before "harassment" insert "child abuse and".

3 **2.** Page 2, line 1: before that line insert:

4 "SECTION 1g. 813.122 (4) (c) of the statutes is amended to read:

5 813.122 (4) (c) The temporary restraining order is in effect until a hearing is
6 held on issuance of an injunction under sub. (5). A judge shall hold a hearing on
7 issuance of an injunction within 7 14 days after the temporary restraining order is
8 issued, unless the time is extended upon the written consent of the parties or
9 extended once for 7 14 days upon a finding that the respondent has not been served
10 with a copy of the temporary restraining order although the petitioner has exercised
11 due diligence."

12 **3.** Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1m".

13 (END)