

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.

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:

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
3 person to physical contact; engaging in an act that would constitute abuse under s.
4 48.02 (1), sexual assault under s. 940.225, or stalking under s. 940.32; or attempting
5 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
8 grounds to believe that the respondent has ~~violated s. 947.013~~ engaged in
9 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
12 held on issuance of an injunction under sub. (4). A judge or circuit court
13 commissioner shall hold a hearing on issuance of an injunction within ~~7~~ 14 days after
14 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)