

## 2005 DRAFTING REQUEST

### Bill

Received: **04/04/2005**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder (608) 267-0280**

By/Representing: **Anne**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - garn/injunct**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Suder@legis.state.wi.us**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Restraining orders and injunctions

---

### Instructions:

See Attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/P1	rnelson2 04/14/2005	kfollett 04/16/2005	jfrantze 04/19/2005	_____	mbarman 04/19/2005		S&L
/1	rnelson2 04/22/2005	kfollett 04/22/2005	rschluet 04/25/2005	_____	lnorthro 04/25/2005		S&L
/2	rnelson2 07/08/2005	kfollett 07/20/2005	pgreensl 07/20/2005	_____	lnorthro 07/20/2005	mbarman 08/25/2005	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

**<END>**

## 2005 DRAFTING REQUEST

### Bill

Received: **04/04/2005**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder (608) 267-0280**

By/Representing: **Anne**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - garn/injunct**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Suder@legis.state.wi.us**

Carbon copy (CC:) to:

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Restraining orders and injunctions

---

### Instructions:

See Attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/P1	rnelson2 04/14/2005	kfollett 04/16/2005	jfrantze 04/19/2005	_____	mbarman 04/19/2005		S&L
/1	rnelson2 04/22/2005	kfollett 04/22/2005	rschluet 04/25/2005	_____	lnorthro 04/25/2005		S&L
/2	rnelson2 07/08/2005	kfollett 07/20/2005	pgreensl 07/20/2005	_____	lnorthro 07/20/2005		

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

**<END>**

### 2005 DRAFTING REQUEST

#### Bill

Received: **04/04/2005**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Suder (608) 267-0280**

By/Representing: **Anne**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - garn/injunct**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Suder@legis.state.wi.us**

Carbon copy (CC:) to:

#### Pre Topic:

No specific pre topic given

#### Topic:

Restraining orders and injunctions

#### Instructions:

See Attached

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/P1	rnelson2 04/14/2005	kfollett 04/16/2005	jfrantze 04/19/2005	_____	mbarman 04/19/2005		S&L
/1	rnelson2 04/22/2005	kfollett 04/22/2005	rschluet 04/25/2005	_____	lnorthro 04/25/2005		

FE Sent For:

*Handwritten notes:*  
12 kjf  
7/20  
2  
rs  
08/19/05

2005 DRAFTING REQUEST

Bill

Received: 04/04/2005

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Scott Suder (608) 267-0280

By/Representing: Anne

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - garn/injunct

Extra Copies:

Submit via email: YES

Requester's email: Rep.Suder@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Restraining orders and injunctions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/P1	rnelson2 04/14/2005	kfollett 04/16/2005	jfrantze 04/19/2005		mbarman 04/19/2005		

FE Sent For:

11 k/f  
4/22  
5/20  
5  
<END>

**2005 DRAFTING REQUEST**

**Bill**

Received: 04/04/2005

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Scott Suder (608) 267-0280

By/Representing: Anne

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - garn/injunct

Extra Copies:

Submit via email: YES

Requester's email: Rep.Suder@legis.state.wi.us

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Restraining orders and injunctions

---

**Instructions:**

See Attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2	1P/1G 4/19	4/19	8/1Pg 4/19			

FE Sent For:

<END>

**Basford, Sarah**

---

**From:** Emerson, Anne  
**Sent:** Tuesday, March 29, 2005 6:01 PM  
**To:** LRB.Legal  
**Cc:** Suder, Scott; Hilgemann, Luke  
**Subject:** Bill Draft Requests

Representative Suder would like to draft legislation relating to condemnation proceedings. Please find attached a memo that provides additional information regarding what we are looking to do. If you have any questions, please do not hesitate to contact us.

Also, we are looking to draft legislation relating to harassment restraining orders. I have additional written information regarding what we are looking to do, if you could just let me know who I should send it to, I'd be happy to inter-d it over. The sections of the statutes we are looking at is Chap. 813.12 (3) (c), 813.125 (3)(c) & (4)(c), 814.61(1)(c) and 814.70(1).

Thank you!  
Anne Emerson  
Office of State Representative Scott Suder

7-0280



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

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

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

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

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

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

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

(b) A petition may be filed in conjunction with an action affecting the family commenced under ch. 767, but commencement of an action affecting the family or any other action is not necessary for the filing of a petition or the issuance of a temporary restraining order or an injunction. A judge or circuit court commissioner may not make findings or issue orders under s. 767.23 or 767.24 while granting relief requested only under this section. Section 813.06 does not apply to an action under this section. The respondent may respond to the petition either in writing before or at the hearing on the issuance of the injunction or orally at that hearing.

(2m) TWO-PART PROCEDURE. Procedure for an action under this section is in 2 parts. First, if the petitioner requests a temporary restraining order the court shall issue or refuse to issue that order. Second, the court shall hold a hearing under sub. (4) on whether to issue an injunction, which is the final relief. If the court issues a temporary restraining order, the order shall set forth the date for the hearing on an injunction. If the court does not issue a temporary restraining order, the date for the hearing shall be set upon motion by either party.

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

1. The petitioner submits to the judge or circuit court commissioner a petition alleging the elements set forth under sub. (5) (a).

2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based on prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

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

(am) If the petitioner and the respondent are not married, the respondent owns the premises where the petitioner resides and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

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

(d) The judge or circuit court commissioner shall advise the petitioner of the right to serve the respondent the petition by published notice if with due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or (b). The clerk of circuit court shall assist the petitioner with the preparation of the notice and filing of the affidavit of printing.

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

1. The petitioner files a petition alleging the elements set forth under sub. (5) (a).

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

3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has engaged in, or based upon prior conduct of the petitioner and the respondent may engage in, domestic abuse of the petitioner.

(aj) In determining whether to issue an injunction, the judge or circuit court commissioner shall consider the potential danger

Need  
Similar  
language  
in  
have not  
RO

813.125  
(3) (c)

fined not more than \$1,000 or imprisoned for not more than 9 months or both.

(11) **APPLICABILITY.** This section does not apply to vulnerable adults who are patients or residents of state-operated or county-operated inpatient institutions unless the alleged interference with an investigation of the vulnerable adult under s. 55.043 or with the delivery to the vulnerable adult of protective services under s. 55.05 or a protective placement of the vulnerable adult under s. 55.06 is alleged to have been done by a person other than an employee of the inpatient institution.

(12) **NOTICE OF FULL FAITH AND CREDIT.** An order or injunction issued under sub. (4) or (5) shall include a statement that the order or injunction may be accorded full faith and credit in every civil or criminal court of the United States, civil or criminal courts of any other state and Indian tribal courts to the extent that such courts may have personal jurisdiction over nontribal members.

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61.

**813.125 Harassment restraining orders and injunctions.** (1) **DEFINITION.** In this section, "harassment" means any of the following:

(a) Striking, shoving, kicking or otherwise subjecting another person to physical contact or attempting or threatening to do the same.

(b) Engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.

(2) **COMMENCEMENT OF ACTION.** An action under this section may be commenced by filing a petition described under sub. (5) (a). No action under this section may be commenced by service of summons. Section 813.06 does not apply to an action under this section.

(3) **TEMPORARY RESTRAINING ORDER.** (a) A judge or circuit court commissioner may issue a temporary restraining order ordering the respondent to cease or avoid the harassment of another person, to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both, or any combination of these remedies requested in the petition, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5) (a).

2. The judge or circuit court commissioner finds reasonable grounds to believe that the respondent has violated s. 947.013.

(am) If the petitioner and the respondent are not married, and the respondent owns the premises where the petitioner resides, and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) Notice need not be given to the respondent before issuing a temporary restraining order under this subsection. A temporary restraining order may be entered only against the respondent named in the petition.

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

(4) **INJUNCTION.** (a) A judge or circuit court commissioner may grant an injunction ordering the respondent to cease or avoid the harassment of another person, to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both, or any combination of

these remedies requested in the petition, if all of the following occur:

1. The petitioner has filed a petition alleging the elements set forth under sub. (5) (a).

2. The petitioner serves upon the respondent a copy of a restraining order obtained under sub. (3) and notice of the time for the hearing on the issuance of the injunction under sub. (3) (c). The restraining order or notice of hearing served under this subdivision shall inform the respondent that, if the judge or circuit court commissioner issues an injunction, the judge or circuit court commissioner may also order the respondent not to possess a firearm while the injunction is in effect.

3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent has violated s. 947.013.

(am) If the petitioner and the respondent are not married, and the respondent owns the premises where the petitioner resides, and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) The injunction may be entered only against the respondent named in the petition.

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

(4m) **RESTRICTION ON FIREARM POSSESSION; SURRENDER OF FIREARMS.** (a) If a judge or circuit court commissioner issues an injunction under sub. (4) and the judge or circuit court commissioner determines, based on clear and convincing evidence presented at the hearing on the issuance of the injunction, that the respondent may use a firearm to cause physical harm to another or to endanger public safety, the judge or circuit court commissioner may prohibit the respondent from possessing a firearm.

(b) An order prohibiting a respondent from possessing a firearm issued under par. (a) remains in effect until the expiration of the injunction issued under sub. (4).

(c) An order issued under par. (a) that prohibits a respondent from possessing a firearm shall do all of the following:

1. Inform the respondent named in the petition of the requirements and penalties under s. 941.29.

2. Except as provided in par. (cg), require the respondent to surrender any firearms that he or she owns or has in his or her possession to the sheriff of the county in which the action under this section was commenced, to the sheriff of the county in which the respondent resides or to another person designated by the respondent and approved by the judge or circuit court commissioner. The judge or circuit court commissioner shall approve the person designated by the respondent unless the judge or circuit court commissioner finds that the person is inappropriate and places the reasons for the finding on the record. If a firearm is surrendered to a person designated by the respondent and approved by the judge or circuit court commissioner, the judge or circuit court commissioner shall inform the person to whom the firearm is surrendered of the requirements and penalties under s. 941.29 (4).

(cg) If the respondent is a peace officer, an order issued under par. (a) may not require the respondent to surrender a firearm that he or she is required, as a condition of employment, to possess whether or not he or she is on duty.

(cm) 1. When a respondent surrenders a firearm under par. (c) 2. to a sheriff, the sheriff who is receiving the firearm shall prepare a receipt for each firearm surrendered to him or her. The receipt shall include the manufacturer, model and serial number of the firearm surrendered to the sheriff and shall be signed by the respondent and by the sheriff to whom the firearm is surrendered.

2. The sheriff shall keep the original of a receipt prepared under subd. 1. and shall provide an exact copy of the receipt to the

814.48 COURT COSTS, FEES, AND SURCHARGES

opposed or not, and must be satisfied that the items charged are correct and legal, and shall strike out all charges for services which, in the officer's judgment, were not necessary.

History: Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 814.48; 1993 a. 486.

**814.49 Costs on dismissal for lack of jurisdiction or stay of proceedings.** (1) COSTS ON DISMISSAL FOR LACK OF PERSONAL JURISDICTION. If on objection of any defendant made pursuant to s. 802.06 (2) the action is dismissed as to that defendant on the ground that the court lacks jurisdiction over the defendant's person, the court when entering judgment dismissing the action against the defendant may order the plaintiff to pay to the defendant all reasonable actual costs, disbursements and expenses of the action up to the judgment of dismissal, but the amount so recovered can in no case exceed the sum of \$500.

(2) COSTS ON STAY OF FURTHER PROCEEDINGS. Whenever any party obtains an order staying further proceedings in the action pursuant to s. 801.63, the court may award that party all statutory costs and disbursements in the action up to the order for stay.

History: Sup. Ct. Order, 67 Wis. 2d 585, 758, 781 (1975); Stats. 1975 s. 814.49; Sup. Ct. Order, 130 Wis. 2d xix (1986); 1993 a. 486.

Judicial Council Note, 1986: Sub. (2) is amended to give the court discretion to award or deny costs and disbursements when further proceedings are stayed pending trial in another state under s. 801.63. [Re Order eff. 7-1-86]

**814.51 Jury fees; discretion of court.** The court shall have discretionary authority in any civil or criminal action or proceeding triable by jury to assess the entire cost of one day's juror fee for a jury, including all mileage costs, against either the plaintiff or defendant or to divide the cost and assess the cost against both plaintiff and defendant, or additional parties plaintiff or defendant, if a jury demand has been made in any case and if a jury demand is later withdrawn within 2 business days prior to the time set by the court for the commencement of the trial. The party assessed shall be required to make payment to the clerk of circuit court within a prescribed period and the payment thereof shall be enforced by contempt proceedings.

History: 1971 c. 297; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); Stats. 1975 s. 814.51; 1977 c. 318.

This section is inapplicable if the parties reach a settlement after selecting a jury and making opening statements. Jacobson v. Avestruz, 81 Wis. 2d 240, 260 N.W.2d 267 (1977).

An accused who cancels a jury trial at the last moment to accept a plea bargain risks both taxation of costs under s. 973.06 and the assessment of jury fees under s. 814.51. State v. Foster, 100 Wis. 2d 103, 301 N.W.2d 192 (1981).

Circuit courts do not have the authority to impose a penalty for cancellation of a jury trial beyond that provided for in this section. Collins v. American Family Mutual Insurance Co. 153 Wis. 2d 477, 451 N.W.2d 429 (1990).

SUBCHAPTER II

COURT FEES

**814.60 Criminal actions; fees of the clerk of court.**

(1) In a criminal action, the clerk of circuit court shall collect a fee of \$20 for all necessary filing, entering, or recording, to be paid by the defendant when judgment is entered against the defendant. Of the fees received by the clerk of circuit court under this subsection, the county treasurer shall pay 50% to the secretary of administration for deposit in the general fund and shall retain the balance for the use of the county.

(2) In addition to any fine imposed, a defendant shall pay the costs, fees, and surcharges imposed under this chapter.

History: 1981 c. 317; 1983 a. 27; 1985 a. 36; 1987 a. 27, 339; 1989 a. 64, 107; 1991 a. 39; 1993 a. 16; 1995 a. 224, 227, 448; 1997 a. 27, 248; 1999 a. 9; 2001 a. 16, 56, 103; 2003 a. 33, 139.

Because each charged count requires filing, entering, and recording that is separate and distinct from other charged counts, sub. (1) permits a separate fee for each count. State v. Carter, 229 Wis. 2d 200, 598 N.W.2d 619 (Ct. App. 1999), 98-1688.

Neither the clerk of court nor the county board has the authority to adopt a non-refundable processing fee in the absence of a statute specifically providing for the fee. 80 Atty. Gen. 223.

**814.61 Civil actions; fees of the clerk of court.** In a civil action, the clerk of court shall collect the fees provided in this section. Unless a specific exemption is provided, a governmental unit, as defined in s. 108.02 (17), shall pay fees under this section. The clerk shall collect the following fees:

(1) COMMENCEMENT OF ACTIONS. (a) Except as provided under pars. (c), (d), and (e), at the commencement of all civil actions and special proceedings not specified in ss. 814.62 to 814.66, \$75. Of the fees received by the clerk under this paragraph, the county treasurer shall pay \$45 to the secretary of administration for deposit in the general fund and shall retain the balance for the use of the county. The secretary of administration shall credit \$15 of the \$45 to the appropriation under s. 20.680 (2) (j).

(b) Except as provided in pars. (c), (d) and (e), in addition to the fee under par. (a), at the commencement of an action affecting the family as defined in s. 767.02, a fee of \$20 to be deposited by the county treasurer in a separate account to be used by the county exclusively for the purposes specified in s. 767.11.

(c) Paragraphs (a) and (b) do not apply to any of the following:

1. An action to determine paternity brought by the state or its delegate under s. 767.45 (1) (g) or (h) or commenced on behalf of the child by a guardian appointed under s. 767.045 (1) (c).

2. An action under ch. 769.

3. A proceeding under ss. 961.55 to 961.56 or

4. An action to enforce parental rights under subch. VIII of ch. 88.

5. An action under subch. XIX of ch. 48.

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

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

(2) CHANGE OF VENUE. (a) Except as provided in par. (b), on a change of venue at commencement in the court to which the action is transferred, a fee equal to the fee paid by the plaintiff to commence the action. The transferring court, in its order for change of venue, shall make a finding as to which party's actions necessitated the change of venue and shall order that party to pay the fee, which shall not be taxed as a cost in the action.

(b) If the court orders a change of venue under s. 801.52, no fee may be charged.

(3) THIRD-PARTY COMPLAINT. When any defendant files a 3rd-party complaint, the defendant shall pay a fee of \$45. The defendant shall pay only one such \$45 fee in an action. Of the fees received by the clerk under this subsection, the county treasurer shall pay \$25 to the secretary of administration for deposit in the general fund and shall retain the balance for the use of the county. The secretary of administration shall credit \$5 of the \$25 to the appropriation under s. 20.680 (2) (j).

(4) JURY FEE. For a jury in all civil actions, except a garnishment action under ch. 812, a nonrefundable fee of \$6 per juror demanded to hear the case to be paid by the party demanding a jury within the time permitted to demand a jury trial. If the jury fee is

*Need same language  
wa  
814.70*

entitled to receive pay in more than one action or proceeding for the same attendance or travel on behalf of the same party. A person is not entitled to fees as a witness or interpreter while attending court as an officer or juror. An attorney or counsel in any cause may not be allowed any fee as a witness or interpreter therein.

History: 1981 c. 317; 1987 a. 27; 1995 a. 27; 2001 a. 16.

#### 814.68 Fees of supplemental court commissioners.

(1) SUPPLEMENTAL COURT COMMISSIONERS. A supplemental court commissioner appointed under s. 757.675 (1) shall collect the following fees:

(a) A fee of \$1 for each decision, signing or filing of a document or other ministerial act required by law performed by a supplemental court commissioner. This paragraph does not apply to testimonial proceedings or depositions taken before a supplemental court commissioner.

(b) For the following duties performed by a supplemental court commissioner held in the county courthouse or other court facilities provided by law, reasonable compensation as fixed by the court but not more than the hourly equivalent of the salary of a judge of the court:

1. Every attendance upon the hearing of any motion for an order which a supplemental court commissioner is authorized to grant and for attendance upon any motion or an official act to be done by the supplemental court commissioner.

2. Conducting a hearing and deciding on the issuance of a writ of habeas corpus, certiorari, ne exeat and alternate writs of mandamus.

3. Attendance upon the taking of testimony or examination of witnesses in any matter held outside the county courthouse or other court facilities provided by law, whether acting as a referee or otherwise.

(2) SUPPLEMENTARY EXAMINATIONS. For attendance upon an examination under ch. 816, a supplemental court commissioner shall collect a fee of \$15 to be paid upon the issuance of the order under s. 816.03 (1). The fee shall be returned in any case where it appears by affidavit filed that the order was not served upon the judgment debtor. This fee is the only fee a supplemental court commissioner is entitled to for proceedings under ch. 816.

History: 1981 c. 317; 2001 a. 61.

#### 814.69 Fees of court reporters; transcripts. (1) A court reporter shall collect the following fees:

(a) For a transcript under SCR 71.04, a fee at the rate of \$1.50 per 25-line page for the original and 50 cents per 25-line page for the duplicate. Except as provided in s. 967.06, the fee shall be paid by the county treasurer upon the certificate of the clerk of court.

(b) For a transcript under s. 757.57 (5), a fee from the party requesting the transcript at the rate of \$2.25 per 25-line page for the original and 50 cents per 25-line page for each copy. If the request is by the state or any political subdivision thereof, the fees of the reporter shall be at the rates provided in par. (a).

(bm) If a party requests that a transcript under s. 757.57 (5) be prepared within 7 days after the request and the transcript is not required by supreme court rule or statute to be prepared within that 7-day period, a fee in addition to the fee under par. (b) of 75 cents per 25-line page for the original and 25 cents for each copy. The fee under this paragraph does not apply to a request made by the state or a political subdivision of the state.

(c) A reporter may make a special charge, pursuant to arrangement with the party requesting the same, for furnishing typewritten transcripts of testimony and proceedings from day to day during the progress of any trial or proceeding.

(d) For purposes of this section, a page other than the final page of a transcript shall consist of any 25 or more consecutive typewritten lines, double-spaced, on paper not less than 8 1/2 inches in width, with a margin of not more than 1 1/2 inches on the left and five-eighths of an inch on the right, exclusive of lines disclosing page numbering; type shall be standard pica with 10 letters to

the inch. Questions and answers shall each begin a new line. Indentations for speakers or paragraphs shall be not more than 15 spaces from the left margin.

History: 1981 c. 317; 1985 a. 29; 1985 a. 332 s. 253; 1995 a. 27; 1997 a. 35, 237; 2001 a. 16.

Counties are not required to provide free copy machine services to court reporters who collect fees under sub. (2) for furnishing transcripts to parties. 79 Atty. Gen. 157.

County employees who perform court reporting functions are "court reporters" under this section and may personally retain fees collected hereunder. The county may take the fees into account in setting salary structures. 81 Atty. Gen. 7.

814.70 Fees of sheriffs. The sheriff shall collect the fees under this section. The fees are set as follows, unless a higher fee is established under s. 814.705:

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

(2) EXECUTION ON JUDGMENT. For serving an execution on a judgment demanding payment thereof or other writ not provided for, \$12.

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

(a) In counties having a population of less than 500,000, 25 cents for each mile actually and necessarily traveled.

(b) In counties having a population of 500,000 or more, \$4 for each party to be served in each action. Only one charge may be imposed if there is more than one person to be served at a given address.

(4) TRAVEL; CRIMINAL PROCESS. For travel in serving any criminal process:

(a) In counties having a population of less than 500,000, 25 cents per mile.

(b) In counties having a population of 500,000 or more, \$4 for each person served within the county from which process issued, or 25 cents per mile if served outside the county.

(c) The actual and necessary disbursements for board and conveyance of the prisoner.



State of Wisconsin  
2005 - 2006 LEGISLATURE

other

LRB-2652/P1

RPN *[signature]*

DN

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: harassment restraining orders.

*Analysis by the Legislative Reference Bureau*

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 diligent in attempting to serve the order.

stays

ce

stays →

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

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

delete anal. text

← Insert anal →

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

- 2 SECTION 1. 813.125 (3) (c) of the statutes is amended to read:
- 3 813.125 (3) (c) The temporary restraining order is in effect until a hearing is
- 4 held on issuance of an injunction under sub. (4). A judge or circuit court
- 5 commissioner shall hold a hearing on issuance of an injunction within 7 14 days after

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

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321.

5 **SECTION 2.** 813.125 (4) (c) of the statutes is amended to read:

6 813.125 (4) (c) An injunction under this subsection is effective according to its  
 7 terms, but for not more than ~~2~~ 4 years.

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321.

8 **SECTION 3.** 814.61 (1) (d) of the statutes is amended to read:

9 814.61 (1) (d) No fee charged under this subsection in any action commenced  
 10 under s. ~~813.12~~, 813.122, or 813.123 may be collected from a petitioner under s.  
 11 ~~813.12~~, 813.122, or 813.123. The fee charged under this subsection for petitions filed  
 12 and granted under s. ~~813.12~~, 813.122, or 813.123 shall be collected from the  
 13 respondent under s. ~~813.12~~, 813.122, or 813.123 if he or she is convicted of violating  
 14 a temporary restraining order or injunction issued under s. 813.12 (3) or (4), 813.122  
 15 (4) or (5), or 813.123 (4) or (5).

History: 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 228, 447, 538; 1985 a. 29, 169; 1987 a. 27 ss. 2143p, 3202 (24); 1987 a. 144, 355, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 191; 1991 a. 39, 221, 269; 1993 a. 16, 319, 326, 481, 491; 1995 a. 27, 201, 224, 269, 279, 289, 306; 1997 a. 27, 35, 285; 1999 a. 9, 71; 2001 a. 109; 2003 a. 33, 165, 327.

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

17 814.61 (1) (e) No fee charged under this subsection in any action commenced  
 18 under s. ~~813.122~~, ~~813.123~~, or 813.125 may be collected from a petitioner under s.  
 19 ~~813.122~~, ~~813.123~~, or 813.125 if the petition alleges conduct that is the same as or  
 20 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (am)  
 21 1. to 6. If no fee is collected under this paragraph, the fee charged under this  
 22 subsection for petitions filed and granted under s. ~~813.122~~, ~~813.123~~, or 813.125 shall  
 23 be collected from the respondent under s. ~~813.122~~, ~~813.123~~, or 813.125 if he or she

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

2 ~~813.122 (4) or (5), 813.123 (4) or (5), or 813.125 (3) or (4).~~

**History:** 1981 c. 317; 1983 a. 27; 1983 a. 189 s. 329 (28); 1983 a. 228, 447, 538; 1985 a. 29, 169; 1987 a. 27 ss. 2143p, 3202 (24); 1987 a. 144, 355, 399; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 191; 1991 a. 39, 221, 269; 1993 a. 16, 319, 326, 481, 491; 1995 a. 27, 201, 224, 269, 279, 289, 306; 1997 a. 27, 35, 285; 1999 a. 9, 71; 2001 a. 109; 2003 a. 33, 165, 327.

3

(END)

*D-Note*

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2652/P1ins  
RPN:.....

insert anl:

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 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.

X 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.



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

LRB-2652/P1dn

RPN: *kgj*

*Date*

Please review this draft carefully to ensure that it is consistent with your intent.

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

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

LRB-2652/P1dn  
RPN:kjf:jf

April 19, 2005

Please review this draft carefully to ensure that it is consistent with your intent.

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

*Bob, - Please include into LRB 05-2652*

*Thanks! Anne - Suder Office*

# Memorandum



**From:** Eva Shiffrin & Mike Murray  
**Date:** March 24, 2005  
**Re:** Harassment Restraining Orders and Sexual Assault

Theoretically, anyone could petition for a harassment restraining order, including a victim of a sexual assault. However, sometimes harassment restraining orders are denied because they are viewed as a "stalking" or "bullying" restraining orders and are hesitant to grant one based on a single incident. Sometimes, they are denied because the victim of a single incident is not seen as being in imminent danger of harm.

WCASA would like to see the harassment restraining order revised to make it explicit that a harassment restraining order can be granted after even a single incident of sexual assault. There are many reasons why sexual assault victims are in need of protection orders. Many victims feel re-victimized by prosecution and may want nothing more than to be left alone by their perpetrators. Other victims feel shame or fear the response of the criminal justice system and would prefer to seek a restraining order. These provisions would by no means replace prosecution, but may provide a measure of safety for the approximately 75% of victims who don't report the crime to the police.

Improving the harassment restraining order statute would also allow the opportunity to define harassment in its definition and remove confusing references to the crime of harassment throughout the rest of the statute.

It would also be an opportunity to explicitly state that staking is grounds for a harassment order.

The following is some language to improve the use of harassment protective orders. The definition of sexual assault used here cross-references the sexual assault statutes, but does not have to be.

813.125: Harassment Restraining Orders:

813.125

(1) **Definition.** In this section, "harassment" means any of the following:

(a) Striking, shoving, kicking or otherwise subjecting another person to physical contact or attempting or threatening to do the same.

(b) Engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.

(c) Engaging in an act that would constitute sexual assault under Wisconsin Statutes sec. 940.225 or sexual abuse as defined in 48.01(2), including a single incident of sexual assault.

(d) Engaging in an act or acts that would constitute stalking under Wisconsin Statutes sec. 940.32.

### (3) Temporary restraining order.

(a) A judge or circuit court commissioner may issue a temporary restraining order ordering the respondent to cease or avoid the harassment of another person, to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both, or any combination of these remedies requested in the petition, if all of the following occur:

1. The petitioner files a petition alleging the elements set forth under sub. (5) (a).
2. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent ~~has violated s. 947.013~~ *has engaged in harassment as defined in 813.125(1)*.

### 813.125 (4) Injunction

(a) A judge or circuit court commissioner may grant an injunction ordering the respondent to cease or avoid the harassment of another person, to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both, or any combination of these remedies requested in the petition, if all of the following occur:

1. The petitioner has filed a petition alleging the elements set forth under sub. (5) (a).
2. The petitioner serves upon the respondent a copy of a restraining order obtained under sub. (3) and notice of the time for the hearing on the issuance of the injunction under sub. (3) (c). The restraining order or notice of hearing served under this subdivision shall inform the respondent that, if the judge or circuit court commissioner issues an injunction, the judge or circuit court commissioner may also order the respondent not to possess a firearm while the injunction is in effect.
3. After hearing, the judge or circuit court commissioner finds reasonable grounds to believe that the respondent ~~has violated s. 947.013~~ *has engaged in harassment as*

***defined in 813.125(1).***

(am) If the petitioner and the respondent are not married, and the respondent owns the premises where the petitioner resides, and the petitioner has no legal interest in the premises, in lieu of ordering the respondent to avoid the petitioner's residence under par. (a) the judge or circuit court commissioner may order the respondent to avoid the premises for a reasonable time until the petitioner relocates and shall order the respondent to avoid the new residence for the duration of the order.

(b) The injunction may be entered only against the respondent named in the petition.

(c) An injunction under this subsection is effective according to its terms, but for not more than 2 years. 813.125(5)(a)3.

**813.125(5) Petition.**

(a) The petition shall allege facts sufficient to show the following:

1. The name of the person who is the alleged victim.

2. The name of the respondent.

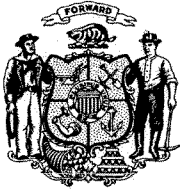
3. That the respondent ~~has violated s. 947.013~~ ***engaged in harassment as defined in 813.125(1).***

(am) The petition shall inform the respondent that, if the judge or circuit court commissioner issues an injunction, the judge or circuit court commissioner may also order the respondent not to possess a firearm while the injunction is in effect.

(b) The clerk of circuit court shall provide simplified forms.

Potential additional provisions:

This statute could also ensure that in proceedings under this section, the rape shield provisions would apply.



State of Wisconsin  
2005 - 2006 LEGISLATURE

Other

LRB-2652/PT

RPN:kjf/jk

D-C

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regen

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

insert  
anal:

*Analysis by the Legislative Reference Bureau*

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

2            813.125 (3) (c) The temporary restraining order is in effect until a hearing is  
3 held on issuance of an injunction under sub. (4). A judge or circuit court  
4 commissioner shall hold a hearing on issuance of an injunction within 7 14 days after  
5 the temporary restraining order is issued, unless the time is extended upon the  
6 written consent of the parties or extended once for 7 14 days upon a finding that the  
7 respondent has not been served with a copy of the temporary restraining order  
8 although the petitioner has exercised due diligence.

9            ~~SECTION 2~~ 813.125 (4) (c) of the statutes is amended to read:

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

12           ~~SECTION 3~~ 814.61 (1) (d) of the statutes is amended to read:

13           814.61 (1) (d) No fee charged under this subsection in any action commenced  
14 under s. 813.12, 813.122, or 813.123 may be collected from a petitioner under s.  
15 813.12, 813.122, or 813.123. The fee charged under this subsection for petitions filed  
16 and granted under s. 813.12, 813.122, or 813.123 shall be collected from the  
17 respondent under s. 813.12, 813.122, or 813.123 if he or she is convicted of violating  
18 a temporary restraining order or injunction issued under s. 813.12 (3) or (4), 813.122  
19 (4) or (5), or 813.123 (4) or (5).

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

2           814.61 (1) (e) No fee charged under this subsection in any action commenced  
3 under s. ~~813.122, 813.123, or~~ 813.125 may be collected from a petitioner under s.  
4 ~~813.122, 813.123, or~~ 813.125 if the petition alleges conduct that is the same as or  
5 similar to conduct that is prohibited by s. 940.32 or that is listed in s. 813.12 (1) (am)  
6 1. to 6. If no fee is collected under this paragraph, the fee charged under this  
7 subsection for petitions filed and granted under s. ~~813.122, 813.123, or~~ 813.125 shall  
8 be collected from the respondent under s. ~~813.122, 813.123, or~~ 813.125 if he or she  
9 is convicted of violating a temporary restraining order or injunction issued under s.  
10 ~~813.122 (4) or (5), 813.123 (4) or (5), or~~ 813.125 (3) or (4).

11

(END)

D-Note



2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2652/lins  
RPN:kjf:jf

1 insert anl:

X 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.

2

3

4 insert 2-1:

5 SECTION 1. 813.125 (1) (c) of the statutes is created to read:

6 813.125 (1) (c) Engaging in an act that would constitute sexual assault under  
7 s. 940.225, or abuse under 48.02 (1), including a single incident of sexual assault or  
8 abuse.

9 SECTION 2. 813.125 (1) (d) of the statutes is created to read:

10 813.125 (1) (d) Engaging in an act the would constitute stalking under s.  
11 940.32.

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

13 813.125 (3) (a) 2. The judge or circuit court commissioner finds reasonable  
14 grounds to believe that the respondent has violated s. 947.013 engaged in  
15 harassment against the petitioner.

16 History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321.

16

17 insert 2-8:

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

1           813.125 (4) (a) 3. After hearing, the judge or circuit court commissioner finds  
2           reasonable grounds to believe that the respondent has ~~violated s. 947.013~~ engaged  
3           in harassment against the petitioner.

4           History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321.

5           insert 2-11:

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

7           813.125 (5) (a) 3. That the respondent has ~~violated s. 947.013~~ engaged in  
8           harassment against the petitioner.

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321.

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

LRB-2652/1dn  
RPN:kjf/jf

*Date*

*and*  
This draft expands the definition of "harassment" for purposes of obtaining a harassment injunction, *and* refers to that expanded definition instead of the current reference to the criminal definition of "harassment" when determining if the person should be subject to the injunction, but does not expand the criminal definition of harassment. Is that OK?

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

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

LRB-2652/1dn  
RPN:kjf:rs

April 25, 2005

This draft expands the definition of "harassment" for purposes of obtaining a harassment injunction and refers to that expanded definition instead of the current reference to the criminal definition of "harassment" when determining if the person should be subject to the injunction, but does not expand the criminal definition of harassment. Is that OK?

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

**Nelson, Robert P.**

---

**To:** Patti Seger; Emerson, Anne; Mike Murray - WCASA  
**Cc:** Eva Shiffrin - WCASA  
**Subject:** RE: Suder Restraining Order bill

Patti,

I don't think that a single act is going to fit under the definition of harassment, so I think using the language "an act" on page 2, lines 2 and 6 and "including a single incident..." on page 2, line 3, are inappropriate. Perhaps we can add another paragraph to the definition of harassment, in 813.125 (1), that would say something like: "Engaging in any combination of acts listed under pars. (a) to (d)." That might help the court in cases where the offender was involved with the person for a short time but did various things that the court could say amounted to harassment.

What do you think?

Bob N.

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

**From:** Patti Seger [mailto:pattis@wcadv.org]  
**Sent:** Monday, June 13, 2005 9:32 AM  
**To:** Nelson, Robert P.; Emerson, Anne; Mike Murray - WCASA  
**Cc:** Eva Shiffrin - WCASA  
**Subject:** RE: Suder Restraining Order bill

Hi Bob,

We are looking for some way to offer victims of sexual assault (non-domestic related) restraining order protection. Often a sexual assault is a single incident/act so its not a "course of conduct". I just spoke w/ Mike down at WCASA about this too. Can we somehow apply "single incident" language to the sexual assault section? I think that may Eva suggested that even in her memo she wrote about this (did Anne in Rep. Suder's office share that with you?). We don't need single incident to apply to anything else. Stalking already requires a course of conduct in the criminal statute and would easily fit under the current harassment definition.

Patti

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

**From:** Nelson, Robert P. [mailto:Robert.Nelson@legis.state.wi.us]  
**Sent:** Tuesday, June 07, 2005 11:06 AM  
**To:** Emerson, Anne; Mike Murray - WCASA  
**Cc:** Patti Seger; Eva Shiffrin - WCASA  
**Subject:** RE: Suder Restraining Order bill

Anne,

I have some of the same concerns that Mike has, especially after reading the cases he cited. However, I prefer a different solution to the problem. Instead of forcing people to look back at the criminal statute, which parrots the harassment restraining language except for intent, I would suggest adding the word

06/15/2005

"intentionally" on page 2, line 10, and page 3, lines 8 and 14, before "engaged". I think that solves that problem in a much cleaner way.

I did notice another possible problem that was raised by the cases. On page 2, lines 2, 3, and 6, the reference is to an act or single incident. I am not sure that the court would find that harassment exists based on a single act or incident. I would suggest making those plural--"engaging in acts that..."

Bob N

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

**From:** Emerson, Anne  
**Sent:** Monday, June 06, 2005 10:07 AM  
**To:** 'Mike Murray - WCASA'  
**Cc:** Patti Seger; Eva Shiffrin - WCASA; Nelson, Robert P.  
**Subject:** RE: Suder Restraining Order bill

Mike,

Thanks for getting back to me with your input. You and Patty both have our approval to talk to Robert Nelson on this draft, in case you want to talk to him directly.

Robert, if you could just let us know what your thoughts are on the items that Mike indicated below that would be appreciated.

Thanks!  
Anne

---

**From:** Mike Murray - WCASA [mailto:mikem@wcasa.org]  
**Sent:** Friday, June 03, 2005 2:44 PM  
**To:** Emerson, Anne  
**Cc:** Patti Seger; Eva Shiffrin - WCASA; Nelson, Robert P.  
**Subject:** RE: Suder Restraining Order bill

Anne,

First, thank you so much for your work on this, I really appreciate it. I think that the general idea of this bill and its intent are right on. However, there could be a constitutional issue with the way in which this bill is currently drafted.

The staff attorney at the WCADV and I have had some time to review the language of this bill and there could be a constitutional problem with it that we would need to address. I would like Robert Nelson, the legislative attorney who drafted the bill, to be involved in this discussion, so I have cc'd him on this email. Patti and I just want to be sure that by changing the current statutes we don't make harassment restraining orders unconstitutional. Our concerns/suggestions are listed below.

1. The elimination of the criminal harassment provision currently contained in 813.125 could cause a problem. I have reviewed the most relevant current case law [Bachowski and Sarlund; cites are below] that discuss the constitutionality of harassment restraining orders. The interpretation of the constitutionality of harassment orders [whether or not they are unconstitutionally vague] could be compromised by removing the criminal harassment statute because the case law in part hinges on an interpretation of the words "intent" which is found in the criminal statute, not in the harassment definition per Sec. 813.125. I think it would be

worthwhile for Robert look at these cases to see how he thinks this current draft would withstand scrutiny under these standards and possibly suggest changes to the draft so that it would conform to the case law requirements.

Bachowski v. Salamone, 139 Wis.2d 397 (1987)  
State v. Sarlund, 139 Wis.2d 386 (1987)

2. I think that a possible solution would be to leave in the reference to criminal harassment under secs. 813.125(3)(a)(2), 813.125(4)(a)(3), 813.125(5)(a)(3). Then those sections should be rewritten so that a judge can issue a temporary restraining order or injunction if the judge finds reasonable grounds that any of the following occurred [in addition to the other procedural requirements]: a violation of 947.013 [harassment], a violation of 940.225 [sexual assault], or 940.32 [stalking]. Does this make sense? I think that this would solve the problem of the "intent" aspect and violations of the criminal sexual assault and stalking statutes are both quite specific, so I don't see the vagueness issue being as much of a problem.

Those are my concerns and suggestions for now. Thanks Anne and Robert for all of your help.

Mike Murray  
Policy Specialist  
Wisconsin Coalition Against Sexual Assault, Inc.  
600 Williamson St. Suite N-2  
Madison, Wisconsin 53703  
(608) 257-1516 ph.  
(608) 257-2150 fax  
mikem@wcasa.org

---

**From:** Emerson, Anne [mailto:Anne.Emerson@legis.state.wi.us]  
**Sent:** Wednesday, May 25, 2005 4:50 PM  
**To:** pattis@wcadv.org; Mike Murray - WCASA  
**Cc:** Hilgemann, Luke; Suder, Scott  
**Subject:** Suder Restraining Order bill

Patti & Mike,

Please find the redraft along with the drafting note of our restraining order bill. Sorry for not getting this to you sooner.

If you have any questions or suggested changes, please let me know. Once I get the go ahead from you I'll get the co-sponsorship ready.

Thanks,  
Anne

<<05-26521Restraining orders.dn.pdf>> <<05-26521.Restricting Orders.pdf>>

**Nelson, Robert P.**

---

**To:** Emerson, Anne; 'Mike Murray - WCASA'  
**Cc:** 'Patti Seger'; 'Eva Shiffrin - WCASA'  
**Subject:** RE: Suder Restraining Order bill

Anne,

I have some of the same concerns that Mike has, especially after reading those cases he provided. However, I prefer a different solution to the problem. Instead of forcing people to look back at the criminal statute, which parrots the harassment restraining language except for intent, I would suggest adding the word "intentionally" on page 2, line 10, and page 3, lines 8 and 14, before "engaged". I think that solves that problem in a much cleaner way. What do you think Mike?

I did notice another possible problem that was raised by the cases. On page 2, lines 2, 3 and 6, the reference is to an act or single incident. I am not sure that the court would find that harassment exists based on a single act or incident. I would suggest making those plural-- "engaging in acts that..."

Bob N

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

**From:** Emerson, Anne  
**Sent:** Monday, June 06, 2005 10:07 AM  
**To:** 'Mike Murray - WCASA'  
**Cc:** Patti Seger; Eva Shiffrin - WCASA; Nelson, Robert P.  
**Subject:** RE: Suder Restraining Order bill

Mike,

Thanks for getting back to me with your input. You and Patty both have our approval to talk to Robert Nelson on this draft, in case you want to talk to him directly.

Robert, if you could just let us know what your thoughts are on the items that Mike indicated below that would be appreciated.

Thanks!  
Anne

---

**From:** Mike Murray - WCASA [mailto:mikem@wcasa.org]  
**Sent:** Friday, June 03, 2005 2:44 PM  
**To:** Emerson, Anne  
**Cc:** Patti Seger; Eva Shiffrin - WCASA; Nelson, Robert P.  
**Subject:** RE: Suder Restraining Order bill

Anne,

First, thank you so much for you work on this, I really appreciate it. I think that the general idea of this bill and its intent are right on. However, there could be a constitutional issue with the way in which this bill is

06/07/2005



currently drafted.

The staff attorney at the WCADV and I have had some time to review the language of this bill and there could be a constitutional problem with it that we would need to address. I would like Robert Nelson, the legislative attorney who drafted the bill, to be involved in this discussion, so I have cc'd him on this email. Patti and I just want to sure that by changing the current statutes we don't make harassment restraining orders unconstitutional. Our concerns/suggestions are listed below.

1. The elimination of the criminal harassment provision currently contained in 813.125 could cause a problem. I have reviewed the most relevant current case law [Bachowski and Sarlund; cites are below] that discuss the constitutionality of harassment restraining orders. The interpretation of the constitutionality of harassment orders [whether or not they are unconstitutionally vague] could be compromised by removing the criminal harassment statute because the case law in part hinges on an interpretation of the words "intent" which is found in the criminal statute, not in the harassment definition per Sec. 813.125. I think it would be worthwhile for Robert look at these cases to see how he thinks this current draft would withstand scrutiny under these standards and possibly suggest changes to the draft so that it would conform to the case law requirements.

Bachowski v. Salamone, 139 Wis.2d 397 (1987)  
State v. Sarlund, 139 Wis.2d 386 (1987)

2. I think that a possible solution would be to leave in the reference to criminal harassment under secs. 813.125(3)(a)(2), 813.125(4)(a)(3), 813.125(5)(a)(3). Then those sections should be rewritten so that a judge can issue a temporary restraining order or injunction if the judge finds reasonable grounds that any of the following occurred [in addition to the other procedural requirements]: a violation of 947.013 [harassment], a violation of 940.225 [sexual assault], or 940.32 [stalking]. Does this make sense? I think that this would solve the problem of the "intent" aspect and violations of the criminal sexual assault and stalking statutes are both quite specific, so I don't see the vagueness issue being as much of a problem.

Those are my concerns and suggestions for now. Thanks Anne and Robert for all of your help.

Mike Murray  
Policy Specialist  
Wisconsin Coalition Against Sexual Assault, Inc.  
600 Williamson St. Suite N-2  
Madison, Wisconsin 53703  
(608) 257-1516 ph.  
(608) 257-2150 fax  
mikem@wcasa.org

---

**From:** Emerson, Anne [mailto:Anne.Emerson@legis.state.wi.us]  
**Sent:** Wednesday, May 25, 2005 4:50 PM  
**To:** pattis@wcadv.org; Mike Murray - WCASA  
**Cc:** Hilgemann, Luke; Suder, Scott  
**Subject:** Suder Restraining Order bill

Patti & Mike,

Please find the redraft along with the drafting note of our restraining order bill. Sorry for not getting this to you sooner.

06/07/2005

If you have any questions or suggested changes, please let me know. Once I get the go ahead from you I'll get the co-sponsorship ready.

Thanks,  
Anne

<<05-26521Restraining orders.dn.pdf>> <<05-26521.Restricting Orders.pdf>>

**Nelson, Robert P.**

---

**To:** Emerson, Anne; 'Mike Murray - WCASA'  
**Cc:** 'Patti Seger'; 'Eva Shiffrin - WCASA'  
**Subject:** RE: Suder Restraining Order bill

Anne,

I have some of the same concerns that Mike has, especially after reading the cases he cited. However, I prefer a different solution to the problem. Instead of forcing people to look back at the criminal statute, which parrots the harassment restraining language except for intent, I would suggest adding the word "intentionally" on page 2, line 10, and page 3, lines 8 and 14, before "engaged". I think that solves that problem in a much cleaner way.

I did notice another possible problem that was raised by the cases. On page 2, lines 2, 3, and 6, the reference is to an act or single incident. I am not sure that the court would find that harassment exists based on a single act or incident. I would suggest making those plural-- "engaging in acts that..."

Bob N

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

**From:** Emerson, Anne  
**Sent:** Monday, June 06, 2005 10:07 AM  
**To:** 'Mike Murray - WCASA'  
**Cc:** Patti Seger; Eva Shiffrin - WCASA; Nelson, Robert P.  
**Subject:** RE: Suder Restraining Order bill

Mike,

Thanks for getting back to me with your input. You and Patty both have our approval to talk to Robert Nelson on this draft, in case you want to talk to him directly.

Robert, if you could just let us know what your thoughts are on the items that Mike indicated below that would be appreciated.

Thanks!  
Anne

---

**From:** Mike Murray - WCASA [mailto:mikem@wcasa.org]  
**Sent:** Friday, June 03, 2005 2:44 PM  
**To:** Emerson, Anne  
**Cc:** Patti Seger; Eva Shiffrin - WCASA; Nelson, Robert P.  
**Subject:** RE: Suder Restraining Order bill

Anne,

First, thank you so much for your work on this, I really appreciate it. I think that the general idea of this bill and its intent are right on. However, there could be a constitutional issue with the way in which this bill is currently drafted.

06/07/2005

The staff attorney at the WCADV and I have had some time to review the language of this bill and there could be a constitutional problem with it that we would need to address. I would like Robert Nelson, the legislative attorney who drafted the bill, to be involved in this discussion, so I have cc'd him on this email. Patti and I just want to sure that by changing the current statutes we don't make harassment restraining orders unconstitutional. Our concerns/suggestions are listed below.

1. The elimination of the criminal harassment provision currently contained in 813.125 could cause a problem. I have reviewed the most relevant current case law [Bachowski and Sarlund; cites are below] that discuss the constitutionality of harassment restraining orders. The interpretation of the constitutionality of harassment orders [whether or not they are unconstitutionally vague] could be compromised by removing the criminal harassment statute because the case law in part hinges on an interpretation of the words "intent" which is found in the criminal statute, not in the harassment definition per Sec. 813.125. I think it would be worthwhile for Robert look at these cases to see how he thinks this current draft would withstand scrutiny under these standards and possibly suggest changes to the draft so that it would conform to the case law requirements.

Bachowski v. Salamone, 139 Wis.2d 397 (1987)  
State v. Sarlund, 139 Wis.2d 386 (1987)

2. I think that a possible solution would be to leave in the reference to criminal harassment under secs. 813.125(3)(a)(2), 813.125(4)(a)(3), 813.125(5)(a)(3). Then those sections should be rewritten so that a judge can issue a temporary restraining order or injunction if the judge finds reasonable grounds that any of the following occurred [in addition to the other procedural requirements]: a violation of 947.013 [harassment], a violation of 940.225 [sexual assault], or 940.32 [stalking]. Does this make sense? I think that this would solve the problem of the "intent" aspect and violations of the criminal sexual assault and stalking statutes are both quite specific, so I don't see the vagueness issue being as much of a problem.

Those are my concerns and suggestions for now. Thanks Anne and Robert for all of your help.

Mike Murray  
Policy Specialist  
Wisconsin Coalition Against Sexual Assault, Inc.  
600 Williamson St. Suite N-2  
Madison, Wisconsin 53703  
(608) 257-1516 ph.  
(608) 257-2150 fax  
mikem@wcasa.org

---

**From:** Emerson, Anne [mailto:Anne.Emerson@legis.state.wi.us]  
**Sent:** Wednesday, May 25, 2005 4:50 PM  
**To:** pattis@wcadv.org; Mike Murray - WCASA  
**Cc:** Hilgemann, Luke; Suder, Scott  
**Subject:** Suder Restraining Order bill

Patti & Mike,

Please find the redraft along with the drafting note of our restraining order bill. Sorry for not getting this to you sooner.

If you have any questions or suggested changes, please let me know. Once I get the go ahead from you

I'll get the co-sponsorship ready.

Thanks,  
Anne

<<05-26521Restraining orders.dn.pdf>> <<05-26521.Restricting Orders.pdf>>

**Nelson, Robert P.**

---

**From:** Mike Murray - WCASA [mikem@wcasa.org]  
**Sent:** Thursday, July 07, 2005 2:08 PM  
**To:** Nelson, Robert P.  
**Subject:** Suder Restraining Order Bill

Bob,

I've talked w/Patti Seger and we both think that the best thing to do w/this bill is to write in the changes we talked about yesterday. So here is the gist of what we think should be done to s. 813.125(1)(a):

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

If you think there are better ways to phrase this, feel free to change it however you would like. Thanks for all of your help with this, we really appreciate it.  
Let me know if you need anything else from me.

Mike Murray  
Policy Specialist  
Wisconsin Coalition Against Sexual Assault, Inc.  
600 Williamson St. Suite N-2  
Madison, Wisconsin 53703  
(608) 257-1516 ph.  
(608) 257-2150 fax  
mikem@wcasa.org

07/07/2005

**Nelson, Robert P.**

---

**From:** Mike Murray - WCASA [mikem@wcasa.org]  
**Sent:** Thursday, July 07, 2005 4:02 PM  
**To:** Nelson, Robert P.  
**Subject:** suder bill correction

Bob,

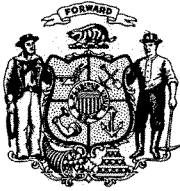
I'm sure you've already noticed this error in my email, but just in case you haven't let me alert you to it. In the language I gave you I said: 813.125(1)(a) Striking, shoving, kicking or otherwise subjecting another person to physical contact, engaging in an act that would constitute **stalking** under s. 940.225, abuse under s. 48.02(1), or stalking under s. 940.32 or attempting or threatening to do the same.

I obviously should have said **sexual assault** under s. 940.225, not stalking. Sorry about that rather bone-headed mistake.

Again, thanks for all of your help.

Mike Murray  
Policy Specialist  
Wisconsin Coalition Against Sexual Assault, Inc.  
600 Williamson St. Suite N-2  
Madison, Wisconsin 53703  
(608) 257-1516 ph.  
(608) 257-2150 fax  
mikem@wcasa.org

07/07/2005



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-2652/1<sup>2</sup>

RPN:kjf:js

2005 BILL

regen

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



**BILL**

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) (c) of the statutes is created to read:

2 813.125 (1) (c) Engaging in an act that would constitute sexual assault under  
3 s. 940.225, or abuse under 48.02 (1), including a single incident of sexual assault or  
4 abuse.

5 SECTION 2. 813.125 (1) (d) of the statutes is created to read:

6 813.125 (1) (d) Engaging in an act that would constitute stalking under s.  
7 940.32.

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

9 813.125 (3) (a) 2. The judge or circuit court commissioner finds reasonable  
10 grounds to believe that the respondent has violated s. 947.013 engaged in  
11 harassment against the petitioner.  
*with intent to harass or intimidate*

12 SECTION 4. 813.125 (3) (c) of the statutes is amended to read:

13 813.125 (3) (c) The temporary restraining order is in effect until a hearing is  
14 held on issuance of an injunction under sub. (4). A judge or circuit court

*Ad. Fee Murray*  
*Put these in (c) (a)*

*Insert 2-7*

**BILL**

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

6 **SECTION 5.** 813.125 (4) (a) 3. of the statutes is amended to read:

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

10 **SECTION 6.** 813.125 (4) (c) of the statutes is amended to read:

11 813.125 (4) (c) An injunction under this subsection is effective according to its  
12 terms, but for not more than 2 4 years.

13 **SECTION 7.** 813.125 (5) (a) 3. of the statutes is amended to read:

14 813.125 (5) (a) 3. That the respondent has violated s. 947.013 engaged in  
15 harassment against the petitioner.

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

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

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

**BILL**

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

10

(END)

**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2652/2ins  
RPN:kjf:rs

1           insert 2-7:

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

3           813.125 (1) (a) Striking, shoving, kicking or otherwise subjecting another  
4           person to physical contact; engaging in an act that would constitute abuse under s.  
5           48.02 (1), sexual assault under s. 940.225, or stalking under s. 940.32; or attempting  
6           or threatening to do the same.

**History:** 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321.

**Barman, Mike**

---

**From:** Emerson, Anne  
**Sent:** Thursday, August 25, 2005 11:47 AM  
**To:** LRB.Legal  
**Subject:** FW: Draft review: LRB 05-2652/2 Topic: Restraining orders and injunctions

It has been requested by <Emerson, Anne> that the following draft be jacketed for the ASSEMBLY:

FW: Draft review: LRB 05-2652/2 Topic: Restraining orders and injunctions