

**2005 DRAFTING REQUEST**

**Assembly Amendment (AA-AB636)**

Received: **09/02/2005**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **Sharon**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Child abuse restraining orders

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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FE Sent For:

<END>

**Nelson, Robert P.**

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**From:** Little, Sharon  
**Sent:** Friday, September 02, 2005 11:52 AM  
**To:** Nelson, Robert P.  
**Subject:** Amendment request

Hi Bob,

Could you please draft an amendment for Fred that adds child abuse to AB 636 as an act that qualifies for the 14 day (vs current 7 day) time limit. Thanks.

Sharon Little  
Aide to State Representative  
FREDERICK P. KESSLER  
608-266-5813

**Nelson, Robert P.**

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**From:** LRB.Legal  
**Sent:** Tuesday, September 06, 2005 7:46 AM  
**To:** Nelson, Robert P.  
**Subject:** FW: Message for Robert Nelson

**Sarah Basford**  
Program Assistant  
State of Wisconsin  
Legislative Reference Bureau  
PH: (608) 266-3561/FAX: (608) 264-6948  
[sarah.basford@legis.state.wi.us](mailto:sarah.basford@legis.state.wi.us)

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**From:** Little, Sharon  
**Sent:** Friday, September 02, 2005 7:46 PM  
**To:** LRB.Legal  
**Subject:** Message for Robert Nelson

Rob,

I don't remember if I told you that the amendment I requested earlier today is for a hearing at 1:00 on Wednesday, Sept. 7 so I'll have to have it into the committee by 1:00 on Tuesday, Sept. 6.



gjs

ASSEMBLY AMENDMENT,  
TO 2005 ASSEMBLY BILL 636

bill hist ✓

PLAIN  
harassment

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

2 **1.** Page 1, line 3: after "relating to," insert "child abuse and".

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

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

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

History: 1985 a. 234; 1987 a. 332 s. 64; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1991 a. 276; 1993 a. 227, 318; 1995 a. 71, 275, 306, 456; 1997 a. 292; 2001 a. 61.

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

13 (END)

fix component

no CS

## 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.

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### *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

**ASSEMBLY BILL 636**

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.

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***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

**ASSEMBLY BILL 636**

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



**ASSEMBLY BILL 636**

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)**