

**2009 DRAFTING REQUEST**

**Bill**

Received: **10/12/2009**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Penny Bernard Schaber (608) 266-3070**

By/Representing: **Eric Peterson in Taylor's office**

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

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Courts - garn/injunct  
Criminal Law - guns and weapons**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.BernardSchaber@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Firearm seizure process under certain injunctions

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**Instructions:**

See attached--companion to -3249

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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>
/?	chanaman 10/12/2009	bkraft 10/12/2009		_____			S&L
/1			jfrantze 10/12/2009	_____	lparisi 10/12/2009	cduerst 10/13/2009	

FE Sent For:

*at  
intro*

<END>

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/?	chanaman	11bjk <sup>10</sup> /12		10/12			

FE Sent For:

<END>



State of Wisconsin  
2009 - 2010 LEGISLATURE

Companion Bill  
no changes

2009 BILL

TODAY  
PLEASE

-3659/1  
LRB 3249/1  
CMH:bjk:ph  
FROM 3249/1  
stays

SA

repeal

1 AN ACT *to repeal* 813.122 (5m) (am), 813.122 (5m) (aw), 813.122 (5m) (b) and (c),  
2 813.125 (4m) (cm), 813.125 (4m) (cw) and 813.125 (4m) (d) and (e); *to renumber*  
3 813.122 (2); *to renumber and amend* 813.12 (4m) (am), 813.12 (4m) (aw),  
4 813.12 (4m) (b) and 813.12 (4m) (c); *to amend* 48.25 (6), 813.12 (2m), 813.12  
5 (4m) (a) 1., 813.12 (4m) (a) 2., 813.122 (3) (a), 813.122 (5m) (a) 1., 813.122 (5m)  
6 (a) 2., 813.125 (4) (a) 2., 813.125 (4m) (a), 813.125 (4m) (c) 1., 813.125 (4m) (c)  
7 2., 813.125 (6) (c) and 938.25 (6); and *to create* 813.12 (2) (c), 813.122 (2) (b),  
8 813.125 (4) (a) 2m. a., b. and c. and 813.129 of the statutes; **relating to:** notice  
9 of firearm prohibition when served with notice of an injunction hearing and  
10 process for surrendering firearms following the granting of certain injunctions.

**Analysis by the Legislative Reference Bureau**

Under current law, a person is prohibited from possessing a firearm and must surrender any firearm he or she currently possesses if he or she is subject to a domestic abuse injunction, a child abuse injunction, or, if the court determines that he or she may use a firearm to harm another or endanger public safety, a harassment injunction (injunction). A person who is subject to an injunction may surrender his

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or her firearm to a sheriff or to a third party approved by the court and is guilty of a Class G felony if convicted of possessing a firearm while subject to the injunction.

This bill creates a procedure for notifying a person of the prohibition against possessing a firearm and of the requirement to surrender any firearm when the person is served with a petition for an injunction hearing.

The bill also creates a procedure for surrendering firearms if the court grants an injunction. If the person who is subject to the injunction (respondent) is present at the injunction hearing, he or she may provide the court with a completed firearm possession form, which is a form that requests information such as the quantity and the make and model of any firearms he or she owns or possesses or has owned or possessed in the previous six months. If the respondent is not present at the injunctive hearing, the court must provide the petitioner with the opportunity to state if the respondent possesses a firearm and, if so, the quantity and make and model of any firearm. If the court is not satisfied that the respondent does not possess a firearm, a firearm surrender hearing must take place within one week of the injunction hearing. If, subject to certain conditions, the respondent surrenders all firearms to the sheriff or to a third party within 48 hours, the court must dismiss the firearm surrender hearing unless the court has a reason related to the surrender of firearms not to dismiss the hearing.

If the court does not dismiss the hearing, a respondent must attend a firearm surrender hearing if the respondent did not appear at the injunction hearing and the court is not satisfied that the respondent does not possess a firearm or the respondent wants to surrender a firearm to a third party that did not appear at the injunction hearing. If a respondent is required to attend the hearing but does not, the court must issue an arrest warrant for the respondent.

At a firearm surrender hearing, if the respondent wants to surrender a firearm to a third party who attends the firearm surrender hearing, the court shall, subject to certain conditions, permit the surrender. If the third party is not at the firearm surrender hearing or the conditions are not met, or the respondent does not want to surrender a firearm to a third party, the court must order the respondent to surrender his or her firearm to the sheriff within 48 hours of the order. If the respondent fails to comply with the order, the court must issue an arrest warrant for the respondent.

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.** 48.25 (6) of the statutes is amended to read:
- 2           48.25 (6) If a proceeding is brought under s. 48.13, any party to or any
- 3 governmental or social agency involved in the proceeding may petition the court to

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1 issue a temporary restraining order and injunction as provided in s. 813.122 or  
2 813.125. The court exercising jurisdiction under this chapter shall follow the  
3 procedure under s. 813.122 or 813.125 except that the court may combine hearings  
4 authorized under s. 813.122 or 813.125 and this chapter, the petitioner for the  
5 temporary restraining order and injunction is not subject to the limitations under s.  
6 813.122 (2) (a) or 813.125 (2) and no fee is required regarding the filing of the petition  
7 under s. 813.122 or 813.125.

8 **SECTION 2.** 813.12 (2) (c) of the statutes is created to read:

9 813.12 (2) (c) When the respondent is served under this subsection, the petition  
10 shall include all of the following:

11 1. Notice of the requirements and penalties under s. 941.29 (1) (f) and (2) (e)  
12 and notice of any similar applicable federal laws and penalties.

13 2. If the court has scheduled a hearing to surrender firearms under sub. (2m),  
14 notice of the hearing.

15 3. An explanation of s. 813.129, including the procedures for surrendering a  
16 firearm and the circumstances listed under s. 813.129 (4) (a) under which a  
17 respondent must appear at a hearing to surrender firearms.

18 4. A firearm possession form developed under s. 813.129 (5), with instructions  
19 for completing and returning the form.

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

21 813.12 (2m) **TWO-PART PROCEDURE.** Procedure for an action under this section  
22 is in 2 parts. First, if the petitioner requests a temporary restraining order the court  
23 shall issue or refuse to issue that order. Second, the court shall hold a hearing under  
24 sub. (4) on whether to issue an injunction, which is the final relief. If the court issues  
25 a temporary restraining order, the order shall set forth the date for the hearing on

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1 an injunction and may set forth the date for a hearing to surrender firearms which  
2 must occur within one week of the injunction hearing. If the court does not issue a  
3 temporary restraining order, the date for the hearing on an injunction shall be set  
4 upon motion by either party and the court may set forth a date for a hearing to  
5 surrender firearms which must occur within one week of the hearing on the  
6 injunction.

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

8 813.12 **(4m)** (a) 1. Inform the respondent named in the petition of the  
9 requirements and penalties under s. 941.29 and any similar applicable federal laws  
10 and penalties.

11 **SECTION 5.** 813.12 (4m) (a) 2. of the statutes is amended to read:

12 813.12 **(4m)** (a) 2. Except as provided in par. (ag), require in writing the  
13 respondent to surrender any firearms ~~that he or she owns or has in his or her~~  
14 ~~possession to the sheriff of the county in which the action under this section was~~  
15 ~~commenced, to the sheriff of the county in which the respondent resides or to another~~  
16 ~~person designated by the respondent and approved by the judge or circuit court~~  
17 ~~commissioner. The judge or circuit court commissioner shall approve the person~~  
18 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
19 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
20 If a firearm is surrendered to a person designated by the respondent and approved  
21 by the judge or circuit court commissioner, the judge or circuit court commissioner  
22 shall inform the person to whom the firearm is surrendered of the requirements and  
23 penalties under s. 941.29 (4) in accordance with s. 813.129.

24 **SECTION 6.** 813.12 (4m) (am) of the statutes is renumbered 813.129 (6) and  
25 amended to read:

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1           813.129 **(6)** (a) When a respondent surrenders a firearm under ~~par. (a) 2. sub.~~  
2           ~~(3) (c) or (4) (c) 2.~~ to a sheriff, the sheriff who is receiving the firearm shall prepare  
3           a receipt for each firearm surrendered to him or her. The receipt shall include the  
4           date on which the firearm was surrendered and the manufacturer, model, and serial  
5           number of the firearm surrendered to the sheriff and shall be signed by the  
6           respondent and by the sheriff to whom the firearm is surrendered.

7           (b) The sheriff shall keep the original of a receipt prepared under ~~subd. 1. par.~~  
8           ~~(a)~~ and shall provide an exact copy of the receipt to the respondent and a certified  
9           copy of the receipt to the court that issued the injunction that required the surrender.  
10          When the firearm covered by the receipt is returned to the respondent under ~~par. (b)~~  
11          ~~sub. (7)~~, the sheriff shall surrender to the respondent the original receipt and all of  
12          his or her copies of the receipt.

13          (c) A receipt prepared under ~~subd. 1. par. (a)~~ is conclusive proof that the  
14          respondent owns the firearm for purposes of returning the firearm covered by the  
15          receipt to the respondent under ~~par. (b) sub. (7)~~.

16          (d) The sheriff may not enter any information contained on a receipt prepared  
17          under ~~subd. 1. par. (a)~~ into any computerized or direct electronic data transfer system  
18          in order to store the information or, except as provided in par. (b), disseminate or  
19          provide access to the information.

20          **SECTION 7.** 813.12 (4m) (aw) of the statutes is renumbered 813.129 (6) (e) 1. and  
21          amended to read:

22               813.129 **(6)** (e) 1. A sheriff may store a firearm surrendered to him or her under  
23               ~~par. (a) 2. sub. (3) (c) or (4) (c) 2.~~ in a warehouse that is operated by a public warehouse  
24               keeper licensed under ch. 99. If a sheriff stores a firearm at a warehouse under this



**BILL****SECTION 7**

1 ~~paragraph subdivision~~, the respondent shall pay the costs charged by the warehouse  
2 for storing that firearm.

3 **SECTION 8.** 813.12 (4m) (b) of the statutes is renumbered 813.129 (7) (a), and  
4 813.129 (7) (a) (intro.) and 1., as renumbered, are amended to read:

5 813.129 (7) (a) A firearm surrendered under ~~par. (a) 2.~~ this section may not be  
6 returned to the respondent until a judge or circuit court commissioner determines  
7 all of the following:

8 1. That the injunction issued under ~~sub. (4) s. 813.12 (4), 813.122 (5), or 813.125~~  
9 (4), whichever required the surrender of the firearm, has been vacated or has expired  
10 and not been extended.

11 **SECTION 9.** 813.12 (4m) (c) of the statutes is renumbered 813.129 (7) (b) and  
12 amended to read:

13 813.129 (7) (b) If a respondent surrenders a firearm under ~~par. (a) 2.~~ this  
14 section that is owned by a person other than the respondent, the person who owns  
15 the firearm may apply for its return to the circuit court for the county in which the  
16 person to whom the firearm was surrendered is located. The court shall order such  
17 notice as it considers adequate to be given to all persons who have or may have an  
18 interest in the firearm and shall hold a hearing to hear all claims to its true  
19 ownership. If the right to possession is proved to the court's satisfaction, it shall  
20 order the firearm returned. If the court returns a firearm under this paragraph, the  
21 court shall inform the person to whom the firearm is returned of the requirements  
22 and penalties under s. 941.29 (4).

23 **SECTION 10.** 813.122 (2) of the statutes is renumbered 813.122 (2) (a).

24 **SECTION 11.** 813.122 (2) (b) of the statutes is created to read:

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1           813.122 (2) (b) When the respondent is served under this subsection, the  
2 petition shall include all of the following:

3           1. Notice of the requirements and penalties under s. 941.29 (1) (f) and (2) (e)  
4 and notice of any similar applicable federal laws and penalties.

5           2. If the court has scheduled a hearing to surrender firearms under sub. (3) (a),  
6 notice of the hearing.

7           3. An explanation of s. 813.129, including the procedures for surrendering a  
8 firearm and the circumstances listed under s. 813.129 (4) (a) under which a  
9 respondent must appear at a hearing to surrender firearms.

10          4. A firearm possession form developed under s. 813.129 (5), with instructions  
11 for completing and returning the form.

12           **SECTION 12.** 813.122 (3) (a) of the statutes is amended to read:

13           813.122 (3) (a) Procedure for an action under this section is in 2 parts. First,  
14 if the petitioner requests a temporary restraining order, the court or circuit court  
15 commissioner shall issue or refuse to issue that order. Second, the court shall hold  
16 a hearing under sub. (5) on whether to issue an injunction, which is the final relief.  
17 If the court or circuit court commissioner issues a temporary restraining order, the  
18 order shall set forth the date for the hearing on an injunction and may set forth the  
19 date for a hearing to surrender firearms which must occur within one week of the  
20 injunction hearing. If the court or circuit court commissioner does not issue a  
21 temporary restraining order, the date for the hearing on an injunction shall be set  
22 upon motion by either party and the court may set forth a date for a hearing to  
23 surrender firearms which must occur within one week of the hearing on the  
24 injunction.

25           **SECTION 13.** 813.122 (5m) (a) 1. of the statutes is amended to read:

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1           813.122 (5m) (a) 1. Inform the respondent named in the petition of the  
2 requirements and penalties under s. 941.29 and any similar applicable federal laws  
3 and penalties.

4           **SECTION 14.** 813.122 (5m) (a) 2. of the statutes is amended to read:

5           813.122 (5m) (a) 2. Except as provided in par. (ag), require in writing the  
6 respondent to surrender any firearms ~~that he or she owns or has in his or her~~  
7 ~~possession to the sheriff of the county in which the action under this section was~~  
8 ~~commenced, to the sheriff of the county in which the respondent resides or to another~~  
9 ~~person designated by the respondent and approved by the judge or circuit court~~  
10 ~~commissioner. The judge or circuit court commissioner shall approve the person~~  
11 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
12 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
13 ~~If a firearm is surrendered to a person designated by the respondent and approved~~  
14 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~  
15 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~  
16 ~~penalties under s. 941.29 (4) in accordance with s. 813.129.~~

17           **SECTION 15.** 813.122 (5m) (am) of the statutes is repealed.

18           **SECTION 16.** 813.122 (5m) (aw) of the statutes is repealed.

19           **SECTION 17.** 813.122 (5m) (b) and (c) of the statutes are repealed.

20           **SECTION 18.** 813.125 (4) (a) 2. of the statutes is amended to read:

21           813.125 (4) (a) 2. The petitioner serves upon the respondent a copy of a  
22 restraining order obtained under sub. (3) and notice of the time for the hearing on  
23 the issuance of the injunction under sub. (3) (c). The court may set forth a date for  
24 a hearing to surrender firearms which must occur within one week of the hearing on  
25 the injunction. If the court sets a date under this subdivision, the notice of the

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1 hearing to surrender firearms shall be served upon the respondent with the copy of  
2 the restraining order.

3 2m. The restraining order or notice of hearing served under ~~this subdivision~~  
4 subd. 2. shall inform the respondent that, if the judge or circuit court commissioner  
5 issues an injunction, the judge or circuit court commissioner may also order the  
6 respondent not to possess a firearm while the injunction is in effect. The order or  
7 notice shall include all of the following:

8 **SECTION 19.** 813.125 (4) (a) 2m. a., b. and c. of the statutes are created to read:

9 813.125 **(4)** (a) 2m. a. Notice of the requirements and penalties under s. 941.29  
10 (1) (g) and (2) (d) and notice of any similar applicable federal laws and penalties.

11 b. An explanation of s. 813.129, including the procedures for surrendering a  
12 firearm and the circumstances listed under s. 813.129 (4) (a) under which a  
13 respondent must appear at a hearing to surrender firearms.

14 c. A firearm possession form developed under s. 813.129 (5), with instructions  
15 for completing and returning the form.

16 **SECTION 20.** 813.125 (4m) (a) of the statutes is amended to read:

17 813.125 **(4m)** (a) If a judge or circuit court commissioner issues an injunction  
18 under sub. (4) and the judge or circuit court commissioner determines, based on clear  
19 and convincing evidence presented at the hearing on the issuance of the injunction,  
20 that the respondent may use a firearm to cause physical harm to another or to  
21 endanger public safety, the judge or circuit court commissioner may prohibit the  
22 respondent from possessing a firearm. If the respondent is not prohibited from  
23 possessing a firearm and the court had scheduled under sub. (4) (a) 2. a hearing to  
24 surrender firearms, the court shall dismiss the hearing to surrender firearms.

25 **SECTION 21.** 813.125 (4m) (c) 1. of the statutes is amended to read:

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1           813.125 **(4m)** (c) 1. Inform the respondent named in the petition of the  
2 requirements and penalties under s. 941.29 and any similar applicable federal laws  
3 and penalties.

4           **SECTION 22.** 813.125 (4m) (c) 2. of the statutes is amended to read:

5           813.125 **(4m)** (c) 2. Except as provided in par. (cg), require in writing the  
6 respondent to surrender any firearms that he or she owns ~~or has in his or her~~  
7 ~~possession to the sheriff of the county in which the action under this section was~~  
8 ~~commenced, to the sheriff of the county in which the respondent resides or to another~~  
9 ~~person designated by the respondent and approved by the judge or circuit court~~  
10 ~~commissioner. The judge or circuit court commissioner shall approve the person~~  
11 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
12 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
13 ~~If a firearm is surrendered to a person designated by the respondent and approved~~  
14 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~  
15 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~  
16 ~~penalties under s. 941.29 (4) in accordance with s. 813.129.~~

17           **SECTION 23.** 813.125 (4m) (cm) of the statutes is repealed.

18           **SECTION 24.** 813.125 (4m) (cw) of the statutes is repealed.

19           **SECTION 25.** 813.125 (4m) (d) and (e) of the statutes are repealed.

20           **SECTION 26.** 813.125 (6) (c) of the statutes is amended to read:

21           813.125 **(6)** (c) A respondent who does not appear at a hearing at which the  
22 court orders an injunction under sub. (4) but who has been served with a copy of the  
23 petition and notice of the time for hearing under sub. (4) (a) 2. that includes the  
24 information required under sub. (4) (a) 2m, has constructive knowledge of the

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1 existence of the injunction and shall be arrested for violation of the injunction  
2 regardless of whether he or she has been served with a copy of the injunction.

3 **SECTION 27.** 813.129 of the statutes is created to read:

4 **813.129 Notice and process for firearm surrender. (1) DEFINITIONS.** In  
5 this section:

6 (a) “Firearm possession form” means the form developed under sub. (5).

7 (b) “Petitioner” means an individual who is applying for, or for whom a court  
8 has granted, an injunction under s. 813.12 (4), 813.122 (5), or 813.125 (4).

9 (c) “Respondent” means the individual who is the subject of an injunction  
10 issued under s. 813.12 (4), 813.122 (5), or 813.125 (4), which requires the individual  
11 under s. 813.12 (4m), 813.122 (5m), or 813.125 (4m) to surrender his or her firearms.

12 **(2) FIREARM POSSESSION DETERMINATION.** (a) If the respondent is present at the  
13 injunction hearing, the respondent shall provide the court a completed firearm  
14 possession form. The court shall verify the information on the firearm possession  
15 form and shall make an inquiry on the record as to the contents of the firearm  
16 possession form.

17 (b) If the respondent is not present at the injunction hearing, the court shall  
18 provide the petitioner with an opportunity to state whether he or she believes that  
19 the respondent possesses a firearm. If the petitioner states that the respondent  
20 possesses a firearm, the court shall ask the petitioner how many firearms he or she  
21 believes the respondent possesses and the make and model of any firearm he or she  
22 believes the respondent possesses.

23 (c) 1. If the firearm possession form submitted to the court under par. (a)  
24 indicates the respondent does not possess a firearm and the court, after an inquiry,  
25 is satisfied that the respondent does not possess a firearm, the court shall file the

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1 firearm possession form and, if a hearing to surrender firearms was scheduled under  
2 s. 813.12 (2m), 813.122 (3) (a), or 813.125 (4) (a) 2., dismiss the hearing.

3 2. If the firearm possession form submitted to the court under par. (a) or the  
4 petitioner's statement under par. (b) indicates that the respondent possesses a  
5 firearm or if the court is not satisfied that the respondent does not possess a firearm,  
6 the court shall schedule a hearing to surrender firearms to occur within one week of  
7 the injunction hearing unless the hearing to surrender firearms was scheduled  
8 under s. 813.12 (2m), 813.122 (3) (a), or 813.125 (4) (a) 2.

9 **(3) SURRENDER OF FIREARMS.** (a) If the respondent surrenders his or her firearm  
10 in a manner consistent with par. (b) or (c), the court shall dismiss the hearing to  
11 surrender firearms scheduled under sub. (2) (c) 2. or under s. 813.12 (2m), 813.122  
12 (3) (a), or 813.125 (4) (a) 2. unless the court has noted another reason that is relevant  
13 to the surrender of firearms that would require the hearing to occur.

14 (b) A respondent for whom a hearing to surrender firearms has been scheduled  
15 under sub. (2) (c) 2. or under s. 813.12 (2m), 813.122 (3) (a), or 813.125 (4) (a) 2. may  
16 surrender his or her firearm to another person if all of the following apply:

17 1. The respondent and the person to whom the respondent is surrendering his  
18 or her firearm appear at the injunction hearing under s. 813.12 (4), 813.122 (5), or  
19 813.125 (4), whichever is appropriate.

20 2. At the injunction hearing, the person submits an affidavit confirming receipt  
21 of the firearms listed on the respondent's firearm possession form.

22 3. At the injunction hearing, the court is satisfied that the person is not  
23 prohibited from possessing a firearm.

24 4. The court informs the person to whom the firearm is surrendered of the  
25 requirements and penalties under s. 941.29 (4).

**BILL**

1           5. The court approves the surrender of the firearm.

2           (c) In accordance with sub. (6), the respondent surrenders his or her firearm  
3 to a sheriff no later than 48 hours after the injunction hearing ordering the  
4 respondent to surrender his or her firearm and the sheriff's department transmits  
5 a certified copy of receipt to the court under sub. (6) (b).

6           **(4) HEARING TO SURRENDER FIREARMS.** (a) Unless the court dismisses under sub.  
7 (2) (c) 1. or (3) (a) the hearing to surrender firearms, a respondent for whom a hearing  
8 to surrender firearms has been scheduled under sub. (2) (c) 2. or under s. 813.12 (2m),  
9 813.122 (3) (a), or 813.125 (4) (a) 2. must attend the hearing to surrender firearms  
10 if any of the following applies:

11           1. The respondent did not appear at the injunction hearing under s. 813.12 (4),  
12 813.122 (5), or 813.125 (4), whichever is appropriate.

13           2. The respondent wants to surrender his or her firearm to a person who did  
14 not appear at the injunction hearing under s. 813.12 (4), 813.122 (5), or 813.125 (4),  
15 whichever is appropriate.

16           (b) The court shall issue an arrest warrant for a respondent who fails to attend  
17 the hearing to surrender firearms if he or she is required under par. (a) to attend.

18           (c) At the hearing to surrender firearms, the court shall ensure that the  
19 respondent has completed a firearm possession form, shall verify the information  
20 provided on the firearms possession form if the information was not already verified  
21 under sub. (2) (a), shall make an inquiry on the record as to the contents of the  
22 firearm possession form, and shall do one of the following:

23           1. If the respondent wants to surrender his or her firearms to a person who is  
24 not the sheriff, permit the surrender if all of the following apply:



**BILL**

1           a. The respondent and the person to whom the respondent is surrendering his  
2 or her firearm appear at the hearing to surrender firearms.

3           b. At the hearing, the person submits an affidavit confirming receipt of the  
4 firearms listed on the respondent's firearm possession form.

5           c. At the hearing, the court is satisfied that the person is not prohibited from  
6 possessing a firearm.

7           d. The court informs the person to whom the firearm is surrendered of the  
8 requirements and penalties under s. 941.29 (4).

9           e. The court approves the surrender of the firearm.

10          2. Order the respondent to surrender any firearm on the respondent's firearm  
11 possession form to a sheriff in accordance with sub. (6) within 48 hours.

12          (d) If the respondent fails to comply with the order under par. (c) 2. the court  
13 shall issue a warrant for the respondent's arrest.

14          **(5) FIREARM POSSESSION FORM.** The clerk of court or the director of state courts  
15 shall develop a firearm possession form. Any information provided on the form by  
16 the respondent is subject to a penalty of false swearing under s. 946.32. The firearm  
17 possession form shall do all of the following:

18           (a) Require the respondent to list his or her name and address.

19           (b) Include space for the respondent's signature and date signed.

20           (c) Require the respondent to indicate whether he or she owns or possesses any  
21 firearm or has owned or possessed any firearm in the 6 months immediately  
22 preceding the issuance of the injunction, and, if the answer is yes, to list the quantity  
23 and the make and model of each firearm and to note whether the firearm was sold  
24 or surrendered and whether he or she has a receipt for the firearm sale or surrender.

25           (d) Give notice of the penalty for false swearing under s. 946.32.

**BILL**

1           **(6) SURRENDER OF FIREARM TO SHERIFF.**

2           (e) 2. If an injunction expires and is not extended, or an injunction is vacated,  
3 a sheriff may charge the respondent for any costs incurred 30 days after the  
4 injunction expires for storage of the firearm surrendered to the sheriff due to that  
5 injunction. A sheriff may dispose of a firearm surrendered to the sheriff due to that  
6 injunction 12 months after the injunction expires or is vacated and, if the sheriff  
7 disposes of the firearm, the sheriff may charge the respondent for the costs of  
8 disposal.

9           **(7) RETURN OF FIREARM.**

10           **SECTION 28.** 938.25 (6) of the statutes is amended to read:

11           938.25 **(6) TEMPORARY RESTRAINING ORDER AND INJUNCTION.** If a proceeding is  
12 brought under s. 938.13, any party to or any governmental or social agency involved  
13 in the proceeding may petition the court to issue a temporary restraining order and  
14 injunction as provided in s. 813.122 or 813.125. The court shall follow the procedure  
15 under s. 813.122 or 813.125 except that the court may combine hearings authorized  
16 under s. 813.122 or 813.125 and this chapter, the petitioner for the temporary  
17 restraining order and injunction is not subject to the limitations under s. 813.122 (2)  
18 or 813.125 (2) (a) and no fee is required regarding the filing of the petition under s.  
19 813.122 or 813.125.

20           **SECTION 29. Initial applicability.**

21           (1) This act first applies to a petition filed on the effective date of this  
22 subsection.

23

**(END)**

**Duerst, Christina**

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**From:** Wilson, Stephanie  
**Sent:** Tuesday, October 13, 2009 8:53 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-3659/1 Topic: Firearm seizure process under certain injunctions

Please Jacket LRB 09-3659/1 for the ASSEMBLY.