

Nelson, Robert P.

From: Tony Gibart [tonyg@wcadv.org]
Sent: Tuesday, July 07, 2009 9:24 AM
To: Murray, Mike
Cc: Nelson, Robert P.
Subject: RE: Draft review: LRB 09-2016/P5 Topic: Harassment injunctions

259-0539
Ext 310

Bob,

Thanks for this draft; it is perfect except for a couple of things. First, Section 8(b)6. is not accurate.

The language for this provision should be as it was in LRB2016/P3. This is one of the differences between sec. 813.12 and 813.125 that will remain under the bill and therefore the section 8(b)5. and 6. should read:

5. The amount of time that a domestic abuse injunction shall be in effect if granted is the amount of time that the petitioner requests under sub. (4) (c).

6. The amount of time that a harassment injunction may be in effect under s. 813.125 (4) (c).

Second, in sections 24 and 25 you used the phrase, "existence of a pending action or of any other court order that restricts contact between the parties." I know we requested that language in sections dealing with conflicts. I think it is also appropriate here, but I would then make amend 813.12(3)(aj) and (4)(aj) with the same phrase because there would be no reason for different language.

Thanks again for all of your work on this.

Tony

From: Murray, Mike [mailto:Mike.Murray@legis.wisconsin.gov]
Sent: Monday, July 06, 2009 1:09 PM
To: Tony Gibart
Subject: FW: Draft review: LRB 09-2016/P5 Topic: Harassment injunctions

Is this ready to go?

From: Parisi, Lori
Sent: Monday, July 06, 2009 12:11 PM
To: Rep.Parisi
Subject: Draft review: LRB 09-2016/P5 Topic: Harassment injunctions

Following is the PDF version of draft LRB 09-2016/P5.

Nelson, Robert P.

From: Tony Gibart [tonyg@wcadv.org]
Sent: Thursday, July 16, 2009 4:04 PM
To: Nelson, Robert P.
Subject: 2016.P5
Attachments: Changes to LRB 2016.P5.doc

Bob,

These changes should put us across the finish line. I don't know if you made any modifications to P5 so I just included everything that needs to be done. Thanks for your help and patience during this process. I hope you have a good vacation.

Tony

Tony Gibart
Policy Coordinator
Wisconsin Coalition Against Domestic Violence
307 S. Paterson St. #1
Madison, WI 53703

Phone: (608) 255-0539 ext. 310
Fax/TTY: (608) 255-3560

07/17/2009

Changes to LRB 2016/P5

Section 8 (b)6. is not accurate.

The language for this provision should be as it was in LRB2016/P3. This is one of the differences between sec. 813.12 and 813.125 that will remain under the bill and therefore the **section 8(b)5. and 6. should read:**

5. The amount of time that a domestic abuse injunction shall be in effect if granted is the amount of time that the petitioner requests under sub. (4) (c).

6. The amount of time that a harassment injunction may be in effect under s. 813.125 (4) (c).

Section 24 should be changed as follows:

SECTION 24. 813.125 (3) (e) of the statutes is created to read:

813.125 (3) (e) 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 civil or criminal court order that includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

To be consistent with this change, ss. 813.12(3)(aj) and (4)(aj) should be amended as follows:

s. 813.12(3)(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~~ civil or criminal court order that includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

s. 813.12(4)(aj) In determining whether to issue an injunction, 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 by the petitioner. The judge or circuit court commissioner may not dismiss or deny granting an injunction because of the existence of a pending action or of any other ~~court order that bars contact between the parties~~ civil or criminal court order that includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

Remove sections 10, 11, 14, 17, 30 and insert them in a separate bill. The remaining sections should receive the new LRB number.

Section 28 should be divided between the two bills as follows: SECTION 28. 813.125 (5g) (d) of the statutes is created to read:

813.125 (5g) (d) The issuance of an order or injunction under sub. (3) or (4) is

enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact. If a law enforcement officer is aware of other civil or criminal court orders or judgments that include provisions regarding contacts between the petitioner and respondent, the law enforcement officer shall enforce all orders and judgments to the extent that the orders or judgments do not conflict and, if the orders or judgments do conflict, the law enforcement officer shall enforce the most restrictive terms of the orders or judgments.

The highlighted portion should be included in the bill that includes all sections except section 10, 11, 14, 17, 30. The non-highlighted portion should be included in the bill that includes sections 10, 11, 14, 17, 30.

7/17
Tony G: Highlighted is
the first sentence of SEC 28.
Rest should be 813.125(59)(e)

Changes to LRB 2016/P5

Section 8 (b)6. is not accurate.

The language for this provision should be as it was in LRB2016/P3. This is one of the differences between sec. 813.12 and 813.125 that will remain under the bill and therefore the

Section 8(b)5. and 6. should read:

5. The amount of time that a domestic abuse injunction shall be in effect if granted is the amount of time that the petitioner requests under sub. (4) (c).

6. The amount of time that a harassment injunction may be in effect under s. 813.125 (4) (c).

Section 24 should be changed to read:

SECTION 24. 813.125 (3) (e) of the statutes is created to read:
813.125 (3) (e) 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 civil or criminal court order that includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

To be consistent with this change, ss. 813.12(3)(aj) and (4)(aj) should be amended as follows:

s. 813.12(3)(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~~ civil or criminal court order that includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

s. 813.12(4)(aj) In determining whether to issue an injunction, 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 by the petitioner. The judge or circuit court commissioner may not dismiss or deny granting an injunction because of the existence of a pending action or of any other ~~court order that bars contact between the parties~~ civil or criminal court order that includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

Remove sections 10, 11, 14, 17, 30 and insert them in a separate bill. The remaining sections should receive the new LRB number.

Section 28 should be divided between the two bills as follows: SECTION 28. 813.125 (5g) (d) of the statutes is created to read:

813.125 (5g) (d) The issuance of an order or injunction under sub. (3) or (4) is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact. If a law enforcement officer is aware of other civil or criminal court orders or judgments that include provisions regarding contacts between the petitioner and respondent, the law enforcement officer shall enforce all orders and judgements to the extent that the orders or judgements do not conflict and, if the orders or judgements do conflict, the law enforcement officer shall enforce the most restrictive terms of the orders or judgments.

“Judgments” may be misspelled in this section.

The highlighted and underlined portion should be included in the bill that includes all sections except section 10, 11, 14, 17, 30. The non-highlighted portion should be included in the bill that includes sections 10, 11, 14, 17, 30.

Note to file:

Drafting instructions received on July 16, 2009 and again on July 28, 2009 requested that 5 sections be pulled from 09-2016 and put into a new bill. Before he left, RPN started the process of putting the bulk of 09-2016 into 09-3147 and redrafting 09-2016 to contain only the sections that the drafting instructions asked to be removed from the draft.

In RPN's absence, I pulled those sections from 09-2016 and put them into 09-3147 because it made more sense to me to keep the 09-2016 draft as the "main" draft and to put the smaller draft into a new LRB number.

I am including in this file a draft of an analysis for the larger draft that intern Jessica Olsap originally wrote for 09-3147. I am drafting 09-3147 as a preliminary draft that contains the 5 sections removed from 09-2016 as per the instructions received on July 16 and July 18, 2009.

PJH



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** temporary restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

This bill creates certain procedural requirements related to petitions for restraining orders and injunctions. The bill mandates that the clerk of courts provide a form explaining the types of restraining orders and injunctions to inquirers. Petitioners must provide a confidential address on a petition for a restraining order or an injunction, as well as information about any prior orders regarding contact between the respondent and the petitioner. The court has certain duties to inform and advise petitioners, such as explaining how to verify service on the respondent, explaining the petitioner's rights before accepting a stipulation (agreement) to convert a petition from domestic abuse to harassment, and providing the petitioner with its written reasoning if it dismisses the petition. The court must also rule on a petition for a temporary restraining order within two business hours, and if it dismisses the petition, it must file a written record of the reasons for dismissal. After the court issues a temporary restraining order, the petitioner alone may extend the 14 day time period before the court holds an injunction hearing. After a decision on a restraining order or injunction, including denial of a temporary restraining order, a party has 30 days to request review of the decision. The court must then hold the hearing within 15 working days after the request.

Currently, the law specifies certain procedural requirements for restraining orders or injunctions when the context is domestic abuse. This bill creates certain procedural requirements for harassment cases, parallel to those applicable in domestic abuse cases. Under the bill, in harassment cases the court must hold an injunction hearing, and the court must assist a petitioner to gain physical possession

of his or her home if needed. The sheriff must also serve an order or injunction on the respondent if requested. The petitioner may serve the order or injunction on the respondent by publication, and the court must explain service by publication to the petitioner.

Current law allows a minor to petition for a child abuse restraining order or injunction. This bill allows a minor to similarly petition for a harassment restraining order or injunction. Current law also requires a minor petitioner to appear by an attorney, guardian, or guardian ad litem. This bill creates an exception to these appearance requirements for minors petitioning for a harassment restraining order or injunction.

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

1

(END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2016/P6

RPN/jld:rs

MR
PBH

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

8-7-09

X

Regeen

1 AN ACT *to renumber* 757.69 (8), ~~to renumber and amend~~ 813.125 (2); *to*
2 *amend* 813.06, 813.12 (2) (a), 813.12 (3) (c), 813.12 (5m), 813.12 (6) (d), 813.122
3 (2), 813.123 (2) (a), 813.125 (3) (c) and 813.125 (5m); and *to create* 757.69 (8)
4 (b), 767.338, 813.12 (5) (a) 4., 813.12 (5g), 813.12 (10), 813.122 (6) (a) 5., 813.122
5 (13), 813.123 (6) (d), 813.123 (13), 813.125 (2) (b), 813.125 (2g), 813.125 (2m),
6 813.125 (3) (d), 813.125 (3) (e), 813.125 (4) (aj), 813.125 (5) (a) 4., 813.125 (5g)
7 (c), 813.125 (5g) (d), 813.125 (9) and 813.126 of the statutes; **relating to:**
8 temporary restraining orders and injunctions.

anal:
prelim

Analysis by the Legislative Reference Bureau

Under this bill, where applicable the court must instruct the parties to obey all nonconflicting court orders or judgments regarding contact between themselves, and to obey the most restrictive of any conflicting orders or judgments. Furthermore, a restraining order or injunction is enforceable despite any such existing orders affecting the parties. Law enforcement must enforce the most restrictive of any conflicting orders or judgments.

[Handwritten signature]

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

1 **SECTION 1.** 757.69 (8) of the statutes is renumbered 757.69 (8) (a).

2 **SECTION 2.** 757.69 (8) (b) of the statutes is created to read:

3 757.69 (8) (b) If a party seeks to have the judge conduct a hearing de novo of
4 a determination, order, or ruling entered in an action under s. 813.12, 813.122,
5 813.123, or 813.125, including a denial of a request for a temporary restraining order,
6 the motion requesting the hearing must be filed with the court within 30 working
7 days after the circuit court commissioner issued the order and the court shall hold
8 the de novo hearing within 15 working days after the motion requesting the hearing
9 is filed with the court.

10 **SECTION 3.** 767.338 of the statutes is created to read:

11 **767.338 Conflict with temporary restraining orders, injunctions, or**
12 **contact prohibitions.** Notwithstanding any other provision of this chapter, the
13 court may not enter an order under this chapter that conflicts with an order entered
14 under s. 813.12, 813.122, 813.123, or 813.125, with the contact prohibition under s.
15 968.075 (5), or with a condition of probation, parole, extended supervision, or release.

16 **SECTION 4.** 813.06 of the statutes is amended to read:

17 **813.06 Security for damages.** In proceedings under s. 767.225 the court or
18 judge may, and in all other proceedings except proceedings under ss. 813.12, 813.122,
19 813.123, 813.125, and 823.113 the court or judge shall, require a bond of the party
20 seeking an injunction, with sureties, to the effect that he or she will pay to the party
21 enjoined such damages, not exceeding an amount to be specified, as he or she may

1 sustain by reason of the injunction if the court finally decides that the party was not
2 entitled thereto. Copies of such bond, affidavit or other pleading shall be served upon
3 the party enjoined and the officer serving the same shall, within 8 days after such
4 service, file his or her return in the office of the clerk of the court.

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

6 813.12 (2) (a) No action under this section may be commenced by complaint and
7 summons. An action under this section may be commenced only by a petition
8 described under sub. (5) (a). The action commences with service of the petition upon
9 the respondent if a copy of the petition is filed before service or promptly after service.
10 If the judge or a circuit court commissioner extends the time for a hearing under sub.
11 (3) (c) and the petitioner files an affidavit with the court stating that personal service
12 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful
13 because the respondent is avoiding service by concealment or otherwise, the judge
14 or circuit court commissioner shall inform the petitioner that he or she may serve the
15 respondent by publication of a summary of the petition as a class 1 notice, under ch.
16 985, and by mailing or sending a facsimile if the respondent's post-office address or
17 facsimile number is known or can with due diligence be ascertained. The mailing or
18 sending of a facsimile may be omitted if the post-office address or facsimile number
19 cannot be ascertained with due diligence. A summary of the petition published as
20 a class 1 notice shall include the name of the respondent and of the petitioner, notice
21 of the temporary restraining order, and notice of the date, time, and place of the
22 hearing regarding the injunction. The court shall inform the petitioner in writing
23 as to which agency the petitioner should contact to verify the proof of service of the
24 petition.

25 SECTION 6. 813.12 (3) (c) of the statutes is amended to read:

Handwritten notes in a circle: HAS 2/3/21

1 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
2 on issuance of an injunction under sub. (4). The temporary restraining order is not
3 voided if the respondent is admitted into a dwelling that the order directs him or her
4 to avoid. A judge or circuit court commissioner shall hold a hearing on issuance of
5 an injunction within 14 days after the temporary restraining order is issued, unless
6 the time is extended upon ~~the written consent of the parties~~ motion of the petitioner
7 or extended once for 14 days upon a finding that the respondent has not been served
8 with a copy of the temporary restraining order although the petitioner has exercised
9 due diligence.

10 ~~SECTION 7.~~ 813.12 (5) (a) 4. of the statutes is created to read:

11 813.12 (5) (a) 4. If the petitioner knows of any other civil or criminal court
12 proceeding in which the petitioner is a party to a court order or judgment that
13 includes provisions regarding contact with the respondent, any of the following that
14 are known by the petitioner:

- 15 a. The name or type of the court proceeding.
16 b. The date of the court proceeding.
17 c. The types of provisions regarding contact between the petitioner and
18 respondent.

19 SECTION 8. 813.12 (5g) of the statutes is created to read:

20 813.12 (5g) STIPULATION. If the parties enter into a stipulation to convert a
21 petition under this section to a petition for a temporary restraining order or
22 injunction under s. 813.125, the court may not approve that stipulation unless all of
23 the following occur:

- 24 (a) Either or both parties submit an oral request on the record for the
25 conversion explaining why the conversion of the petition is requested.

1 (b) The court informs the petitioner on the record of all of the following:

2 1. The requirements for granting a domestic abuse injunction as specified
3 under sub. (4) (a).

4 2. The definition of domestic abuse under sub. (1) (am).

5 3. The requirements for granting a harassment injunction as specified under
6 s. 813.125 (4) (a).

7 4. The definition of harassment under s. 813.125 (1).

8 5. The amount of time that a domestic abuse injunction shall be in effect if
9 granted is the amount of time that the petitioner requests under sub. (4) (c).

10 6. The amount of time that a harassment injunction shall be in effect ^{if granted} ~~if granted~~
11 is the amount of time that the petitioner requests under s. 813.125 (4) (c).

12 7. The orders that may be made under sub. (4) and that shall be made under
13 sub. (4m) upon granting a domestic abuse injunction.

14 8. The orders that may be made under s. 813.125 (4) and (4m) upon granting
15 a harassment injunction.

16 9. The petitioner's right to refuse to enter into a stipulation to convert a petition
17 under this section to a petition under s. 813.125 and to continue under this section.

18 (c) The court includes on the record the court's explanation as to why the
19 granting of a temporary restraining order or injunction under this section is not
20 appropriate.

21 **SECTION 9.** 813.12 (5m) of the statutes is amended to read:

22 813.12 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)
23 and the court order under sub. (3) or (4) shall may not disclose the address of the
24 alleged victim. The petitioner shall provide the clerk of circuit court with the

1 petitioner's address when he or she files a petition under this section. The clerk shall
2 maintain the petitioner's address in a confidential file.

3 **SECTION 10.** 813.12 (6) (d) of the statutes is amended to read:

4 813.12 ~~(6)~~ (d) The issuance of an order or injunction under s. ~~813.12 sub.~~ (3)
5 or (4) is enforceable despite the existence of any other criminal or civil order
6 restricting or prohibiting contact. If a law enforcement officer is aware of other civil
7 or criminal court orders or judgments that include provisions regarding contacts
8 between the petitioner and respondent, the law enforcement officer shall enforce all
9 orders and judgments to the extent that the orders or judgments do not conflict
10 and, if the orders or judgment do conflict, the law enforcement officer shall enforce
11 the most restrictive terms of the orders or judgments.

12 **SECTION 11.** 813.12 (10) of the statutes is created to read:

13 813.12 **(10)** NOTICE CONCERNING CONFLICTING COURT ORDERS. If the court
14 determines that there are other civil or criminal court orders or judgments that
15 include provisions regarding contacts between the petitioner and respondent, an
16 order or injunction issued under sub. (3) or (4) shall include a statement instructing
17 the parties that those other court orders or judgments must be obeyed if they do not
18 conflict with this court's order or each other, and that, if an order or judgment
19 conflicts with another order or judgment, the parties must obey the most restrictive
20 terms of those orders or judgments.

21 **SECTION 12.** 813.122 (2) of the statutes is amended to read:

22 813.122 **(2)** COMMENCEMENT OF ACTION AND RESPONSE. No action under this
23 section may be commenced by complaint and summons. An action under this section
24 may be commenced only by a petition described under sub. (6) (a). The action
25 commences with service of the petition upon the respondent if a copy of the petition

1 is filed before service or promptly after service. The Notwithstanding s. 803.01 (3)
2 (a), the child victim or a parent, stepparent or legal guardian of the child victim may
3 be a petitioner under this section. Section 813.06 does not apply to an action under
4 this section. The respondent may respond to the petition either in writing before or
5 at the hearing on the issuance of the injunction or orally at that hearing. The court
6 shall inform the petitioner in writing as to which agency the petitioner should
7 contact to verify the proof of service of the petition.

8 **SECTION 13.** 813.122 (6) (a) 5. of the statutes is created to read:

9 813.122 (6) (a) 5. If the petitioner knows of any other civil or criminal court
10 proceeding in which the petitioner is a party to a court order or judgment that
11 includes provisions regarding contact with the respondent, any of the following that
12 are known by the petitioner:

- 13 a. The name or type of the court proceeding.
- 14 b. The date of the court proceeding.
- 15 c. The types of provisions regarding contact between the petitioner and
16 respondent.

17 **SECTION 14.** 813.122 (13) of the statutes is created to read:

18 813.122 (13) NOTICE CONCERNING CONFLICTING COURT ORDERS. If the court
19 determines that there are other civil or criminal court orders or judgments that
20 include provisions regarding contacts between the petitioner and respondent, an
21 order or injunction issued under sub. (4) or (5) shall include a statement instructing
22 the parties that those other court orders or judgments must be obeyed if they do not
23 conflict with this court's order or each other, and that, if an order or judgment
24 conflicts with another order or judgment, the parties must obey the most restrictive
25 terms of those orders or judgments.

1 **SECTION 15.** 813.123 (2) (a) of the statutes is amended to read:

2 813.123 (2) (a) No action under this section may be commenced by complaint
3 and summons. An action under this section may be commenced only by a petition
4 described under sub. (6). The action commences with service of the petition upon the
5 respondent if a copy of the petition is filed before service or promptly after service.
6 The individual at risk, any person acting on behalf of an individual at risk, an
7 elder–adult–at–risk agency, or an adult–at–risk agency may be a petitioner under
8 this section. If the petition is filed by a person other than the individual at risk, the
9 petitioner shall serve a copy of the petition on the individual at risk. Section 813.06
10 does not apply to an action under this section. The respondent may respond to the
11 petition either in writing before or at the hearing on the issuance of the injunction
12 or orally at that hearing. The court shall inform the petitioner in writing as to which
13 agency the petitioner should contact to verify the proof of service of the petition.

14 **SECTION 16.** 813.123 (6) (d) of the statutes is created to read:

15 813.123 (6) (d) If the petitioner knows of any other civil or criminal court
16 proceeding in which the petitioner is a party to a court order or judgment that
17 includes provisions regarding contact with the respondent, any of the following that
18 are known by the petitioner:

- 19 1. The name or type of the court proceeding.
- 20 2. The date of the court proceeding.
- 21 3. The type of provisions regarding contact between the petitioner and
22 respondent.

23 **SECTION 17.** 813.123 (13) of the statutes is created to read:

24 813.123 (13) NOTICE CONCERNING CONFLICTING COURT ORDERS. If the court
25 determines that there are other civil or criminal court orders or judgments that

1 include provisions regarding contacts between the petitioner and respondent, an
2 order or injunction issued under sub. (4) or (5) shall include a statement instructing
3 the parties that those other court orders or judgments must be obeyed if they do not
4 conflict with with this court's order or each other, and that, if an order or judgment
5 conflicts with another order or judgment, the parties must obey the most restrictive
6 terms of those orders or judgments.

7 **SECTION 18.** 813.125 (2) of the statutes is renumbered 813.125 (2) (a) and
8 amended to read:

9 813.125 (2) (a) An action under this section may be commenced by filing a
10 petition described under sub. (5) (a). No action under this section may be commenced
11 by service of summons. The action commences with service of the petition upon the
12 respondent if a copy of the petition is filed before service or promptly after service.
13 If the judge or a circuit court commissioner extends the time for a hearing under sub.
14 (3) (c) and the petitioner files an affidavit with the court stating that personal service
15 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful
16 because the respondent is avoiding service by concealment or otherwise, the judge
17 or circuit court commissioner shall inform the petitioner that he or she may serve the
18 respondent by publication of a summary of the petition as a class 1 notice, under ch.
19 985, and by mailing or sending a facsimile if the respondent's post-office address or
20 facsimile number is known or can with due diligence be ascertained. The mailing or
21 sending of a facsimile may be omitted if the post-office address or facsimile number
22 cannot be ascertained with due diligence. A summary of the petition published as
23 a class 1 notice shall include the name of the respondent and of the petitioner, notice
24 of the temporary restraining order, and notice of the date, time, and place of the
25 hearing regarding the injunction. The court shall inform the petitioner in writing

1 as to which agency the petitioner should contact to verify the proof of service of the
2 petition. Section 813.06 does not apply to an action under this section.

3 **SECTION 19.** 813.125 (2) (b) of the statutes is created to read:

4 813.125 (2) (b) Notwithstanding s. 803.01 (3) (a), a child, as defined in s.
5 813.122 (1) (b), or a parent, stepparent, or legal guardian of a child may be a
6 petitioner under this section.

7 **SECTION 20.** 813.125 (2g) of the statutes is created to read:

8 813.125 (2g) APPOINTMENT OF GUARDIAN AD LITEM. The court or circuit court
9 commissioner, on its or his or her own motion, or on the motion of any party, may
10 appoint a guardian ad litem for a child who is the petitioner under this section when
11 justice so requires.

12 **SECTION 21.** 813.125 (2m) of the statutes is created to read:

13 813.125 (2m) TWO-PART PROCEDURE. The procedure for an action under this
14 section is in 2 parts. First, if the petitioner requests a temporary restraining order
15 the court shall issue or refuse to issue that order. Second, the court shall hold a
16 hearing under sub. (4) on whether to issue an injunction, which is the final relief.
17 If the court issues a temporary restraining order, the order shall set forth the date
18 for the hearing on an injunction. If the court does not issue a temporary restraining
19 order, the date for the hearing shall be set upon motion by either party.

20 **SECTION 22.** 813.125 (3) (c) of the statutes is amended to read:

21 813.125 (3) (c) The temporary restraining order is in effect until a hearing is
22 held on issuance of an injunction under sub. (4). A judge or circuit court
23 commissioner shall hold a hearing on issuance of an injunction within 14 days after
24 the temporary restraining order is issued, unless the time is extended upon the
25 ~~written consent of the parties~~ motion of the petitioner or extended once for 14 days

1 upon a finding that the respondent has not been served with a copy of the temporary
2 restraining order although the petitioner has exercised due diligence.

3 SECTION 23. 813.125 (3) (d) of the statutes is created to read:

4 813.125 (3) (d) The judge or circuit court commissioner shall advise the
5 petitioner of the right to serve the respondent the petition by published notice if with
6 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or
7 (b). The clerk of circuit court shall assist the petitioner with the preparation of the
8 notice and filing of the affidavit of printing.

9 SECTION 24. 813.125 (3) (e) of the statutes is created to read:

10 813.125 (3) (e) The judge or circuit court commissioner may not dismiss or deny
11 granting a temporary restraining order because of the existence of a pending action
12 or of any other ^{✓ civil or criminal} court order that ~~restricts~~ ^{includes provisions regarding} contact between the parties, nor due to the
13 necessity of verifying the terms of an existing court order.

14 SECTION 25. 813.125 (4) (aj) of the statutes is created to read:

15 813.125 (4) (aj) The judge or circuit court commissioner may grant only the
16 remedies requested by the petitioner. The judge or circuit court commissioner may
17 not dismiss or deny granting an injunction because of the existence of a pending
18 action or of any other civil or criminal court order that includes provisions regarding
19 contact between the parties, nor due to the necessity of verifying the terms of an
20 existing court order.

21 SECTION 26. 813.125 (5) (a) 4. of the statutes is created to read:

22 813.125 (5) (a) 4. If the petitioner knows of any other civil or criminal court
23 proceeding in which the petitioner is a party to a court order or judgment that
24 includes provisions regarding contact with the respondent, any of the following that
25 are known by the petitioner:

1 a. The name or type of the court proceeding.

2 b. The date of the court proceeding.

3 c. The type of provisions regarding contact between the petitioner and
4 respondent.

5 **SECTION 27.** 813.125 (5g) (c) of the statutes is created to read:

6 813.125 (5g) (c) If an order is issued under this section, upon request by the
7 petitioner the court or circuit court commissioner shall order the sheriff to
8 accompany the petitioner and assist in placing him or her in physical possession of
9 his or her residence or to otherwise assist in executing or serving the temporary
10 restraining order or injunction. The petitioner may, at the petitioner's expense, use
11 a private process server to serve papers on the respondent.

12 **SECTION 28.** 813.125 (5g) (d) of the statutes is created to read:

13 813.125 (5g) (d) The issuance of an order or injunction under sub. (3) or (4) is
14 enforceable despite the existence of any other criminal or civil order restricting or
15 prohibiting contact. ~~If a law enforcement officer is aware of other civil or criminal
16 court orders or judgments that include provisions regarding contacts between the
17 petitioner and respondent, the law enforcement officer shall enforce all orders and
18 judgments to the extent that the orders or judgments do not conflict and, if the
19 orders or judgments do conflict, the law enforcement officer shall enforce the most
20 restrictive terms of the orders or judgments.~~

21 **SECTION 29.** 813.125 (5m) of the statutes is amended to read:

22 813.125 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)
23 and the court order under sub. (3) or (4) shall may not disclose the address of the
24 alleged victim. The petitioner shall provide the clerk of circuit court with the

1 petitioner's address when he or she files a petition under this section. The clerk shall
2 maintain the petitioner's address in a confidential file.

3 **SECTION 30.** 813.125 (9) of the statutes is created to read:

4 813.125 (9) NOTICE CONCERNING CONFLICTING COURT ORDERS. If the court
5 determines that there are other civil or criminal court orders or judgments that
6 include provisions regarding contacts between the petitioner and respondent, an
7 order or injunction issued under sub. (3) or (4) shall include a statement instructing
8 the parties that those other court orders or judgments must be obeyed if they do not
9 conflict with this court's order or with each other, and that, if an order or judgment
10 conflicts with another order or judgment, the parties must obey the most restrictive
11 terms of those orders or judgments.

12 **SECTION 31.** 813.126 of the statutes is created to read:

13 **813.126 Review of petitions; hearing before a judge.** (1) When a person
14 contacts the clerk of circuit court inquiring about filing a petition for a temporary
15 restraining order or injunction under s. 813.12, 813.122, 813.123, or 813.125, the
16 clerk shall provide the person with a document prepared by the director of state
17 courts that informs the person of the types of restraining orders and injunctions, who
18 is eligible for each type of order and injunction, the remedies available under each
19 order and injunction, and the process necessary to obtain an order or injunction in
20 that county. The director of state courts shall, with the assistance of each county,
21 prepare the document required under this subsection and provide sufficient copies
22 to each county without charge.

23 (2) When a person submits a petition to the court under s. 813.12, 813.122,
24 813.123, or 813.125, the court shall review, rule on, and return the petition within
25 2 normal business hours after receipt of the petition. If the court is unable to review

1 the petition within the 2-hour period, the clerk of circuit court shall make
2 arrangements for the review by another court within the 2-hour period.

3 (3) If the court denies a request for a temporary restraining order, the court
4 shall file a written record of the dismissal that includes the names of the petitioner
5 and the reason for the dismissal. The court shall provide the petitioner with a copy
6 of the record of the dismissal.

7 (4) If a petitioner or respondent in an action under s. 813.12, 813.122, 813.123,
8 or 813.125 seeks a de novo hearing before the judge of a court commissioner's
9 determination, the procedure under s. 757.69 (8) shall be followed.

10 **SECTION 32. Initial applicability.**

11 (1) This act first applies to petitions filed with the circuit court on the effective
12 date of this subsection.

13 **SECTION 33. Effective date.**

14 (1) This act takes effect on the first day of the 4th month beginning after
15 publication.

16 (END)

INSERT 3.24:

SECTION 1. 813.12 (3) (aj) of the statutes is amended to read:

813.12 (3) (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 civil or criminal court order that ~~bars~~ includes provisions regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162; 2001 a. 61, 109; 2003 a. 321; 2005 a. 387; 2005 a. 443 s. 265; 2007 a. 20, 124.

INSERT 4.9:

SECTION 2. 813.12 (4) (aj) of the statutes is amended to read:

813.12 (4) (aj) In determining whether to issue an injunction, 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 by the petitioner. The judge or circuit court commissioner may not dismiss or deny granting an injunction because of the existence of a pending action or of any other civil or criminal court order that ~~bars~~ includes provisions



regarding contact between the parties, nor due to the necessity of verifying the terms of an existing court order.

History: 1983 a. 204, 540; 1985 a. 29, 135; 1989 a. 193; 1993 a. 319; 1995 a. 71, 306; 1999 a. 162; 2001 a. 61, 109; 2003 a. 321; 2005 a. 387; 2005 a. 443 s. 265; 2007 a. 20, 124.

(end ins)

Duerst, Christina

From: Duerst, Christina
Sent: Thursday, August 27, 2009 3:14 PM
To: 'tonyg@wcadv.org'
Subject: LRB 09-2016/P6 attached - for your review

Attachments: 09-2016/P6



09-2016P684f2c1cc
.pdf (53 KB)

Nelson, Robert P.

From: Tony Gibart [tonyg@wcadv.org]
Sent: Monday, August 31, 2009 3:10 PM
To: Nelson, Robert P.; Hurley, Peggy
Cc: Gau, Maggie
Subject: LRB 2016

Bob and Peggy,

I just wanted to thank you both for all of your work on LRB 2016. As I believe you know, Rep. Hraychuck's office will be taking the bill. The final version with the analysis can be sent to Maggie.Gau@legis.wisconsin.gov.

Thanks again,

Tony

Tony Gibart
Policy Coordinator
Wisconsin Coalition Against Domestic Violence
307 S. Paterson St. #1
Madison, WI 53703

Phone: (608) 255-0539 ext. 310
Fax/TTY: (608) 255-3560

Nelson, Robert P.

From: Murray, Mike
Sent: Friday, August 28, 2009 4:33 PM
To: Hurley, Peggy; Nelson, Robert P.
Cc: Hilton, Stephanie; Parisi, Lori
Subject: LRB 2016/P6- Harassment RO's

Hi Bob and Peggy,

Thanks so much for getting this draft done. I spoke w/Tony Gibart from WCADV and he said it looked good and was ready to introduce. I just wanted to let you know that Rep. Parisi wanted Rep. Hraychuck to take the lead sponsorship role on the bill, so our office is now going to release the bill to Rep. Hraychuck's office. I have copied Rep. Hraychuck's staffer, Stephanie Hilton, to this email.

Thanks again for all of your extensive help on this bill.

Mike

Mike Murray
Office of Representative Joe Parisi



~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2009 Bill

✓ Regen

1 AN ACT to renumber 757.69 (8); to renumber and amend 813.125 (2); to
2 amend 813.06, 813.12 (2) (a), 813.12 (3) (c), 813.12 (5m), 813.12 (6) (d), 813.122
3 (2), 813.123 (2) (a), 813.125 (3) (c) and 813.125 (5m); and to create 757.69 (8)
4 (b), 767.338, 813.12 (5) (a) 4., 813.12 (5g), 813.12 (10), 813.122 (6) (a) 5., 813.122
5 (13), 813.123 (6) (d), 813.123 (13), 813.125 (2) (b), 813.125 (2g), 813.125 (2m),
6 813.125 (3) (d), 813.125 (3) (e), 813.125 (4) (aj), 813.125 (5) (a) 4., 813.125 (5g)
7 (c), 813.125 (5g) (d), 813.125 (9) and 813.126 of the statutes; relating to:
8 temporary restraining orders and injunctions. ✓

Analysis by the Legislative Reference Bureau

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

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

9 SECTION 1. 757.69 (8) of the statutes is renumbered 757.69 (8) (a).

10 SECTION 2. 757.69 (8) (b) of the statutes is created to read:

Ins anl →

1 757.69 (8) (b) If a party seeks to have the judge conduct a hearing de novo of
2 a determination, order, or ruling entered in an action under s. 813.12, 813.122,
3 813.123, or 813.125, including a denial of a request for a temporary restraining order,
4 the motion requesting the hearing must be filed with the court within 30 working
5 days after the circuit court commissioner issued the determination and the court shall hold
6 the de novo hearing within 15 working days after the motion requesting the hearing
7 is filed with the court.

8 **SECTION 3.** 767.338 of the statutes is created to read:

9 **767.338 Conflict with temporary restraining orders, injunctions, or**
10 **contact prohibitions.** Notwithstanding any other provision of this chapter, the
11 court may not enter an order under this chapter that conflicts with an order entered
12 under s. 813.12, 813.122, 813.123, or 813.125, with the contact prohibition under s.
13 968.075 (5), or with a condition of probation, parole, extended supervision, or release.

14 **SECTION 4.** 813.06 of the statutes is amended to read:

15 **813.06 Security for damages.** In proceedings under s. 767.225 the court or
16 judge may, and in all other proceedings except proceedings under ss. 813.12, 813.122,
17 813.123, 813.125, and 823.113 the court or judge shall, require a bond of the party
18 seeking an injunction, with sureties, to the effect that he or she will pay to the party
19 enjoined such damages, not exceeding an amount to be specified, as he or she may
20 sustain by reason of the injunction if the court finally decides that the party was not
21 entitled thereto. Copies of such bond, affidavit or other pleading shall be served upon
22 the party enjoined and the officer serving the same shall, within 8 days after such
23 service, file his or her return in the office of the clerk of the court.

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

1 813.12 (2) (a) No action under this section may be commenced by complaint and
2 summons. An action under this section may be commenced only by a petition
3 described under sub. (5) (a). The action commences with service of the petition upon
4 the respondent if a copy of the petition is filed before service or promptly after service.
5 If the judge or a circuit court commissioner extends the time for a hearing under sub.
6 (3) (c) and the petitioner files an affidavit with the court stating that personal service
7 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful
8 because the respondent is avoiding service by concealment or otherwise, the judge
9 or circuit court commissioner shall inform the petitioner that he or she may serve the
10 respondent by publication of a summary of the petition as a class 1 notice, under ch.
11 985, and by mailing or sending a facsimile if the respondent's post-office address or
12 facsimile number is known or can with due diligence be ascertained. The mailing or
13 sending of a facsimile may be omitted if the post-office address or facsimile number
14 cannot be ascertained with due diligence. A summary of the petition published as
15 a class 1 notice shall include the name of the respondent and of the petitioner, notice
16 of the temporary restraining order, and notice of the date, time, and place of the
17 hearing regarding the injunction. The court shall inform the petitioner in writing
18 as to which agency the petitioner should contact to verify the proof of service of the
19 petition.

20 **SECTION 6.** 813.12 (3) (aj) of the statutes is amended to read:

21 813.12 (3) (aj) In determining whether to issue a temporary restraining order,
22 the judge or circuit court commissioner shall consider the potential danger posed to
23 the petitioner and the pattern of abusive conduct of the respondent but may not base
24 his or her decision solely on the length of time since the last domestic abuse or the
25 length of time since the relationship ended. The judge or circuit court commissioner

SECTION 6

1 may grant only the remedies requested or approved by the petitioner. The judge or
2 circuit court commissioner may not dismiss or deny granting a temporary
3 restraining order because of the existence of a pending action or of any other civil or
4 criminal court order that ~~bars~~ includes provisions regarding contact between the
5 parties, nor due to the necessity of verifying the terms of an existing court order.

6 **SECTION 7.** 813.12 (3) (c) of the statutes is amended to read:

7 813.12 (3) (c) The temporary restraining order is in effect until a hearing is held
8 on issuance of an injunction under sub. (4). The temporary restraining order is not
9 voided if the respondent is admitted into a dwelling that the order directs him or her
10 to avoid. A judge or circuit court commissioner shall hold a hearing on issuance of
11 an injunction within 14 days after the temporary restraining order is issued, unless
12 the time is extended upon ~~the written consent of the parties~~ motion of the petitioner
13 or extended once for 14 days upon a finding that the respondent has not been served
14 with a copy of the temporary restraining order although the petitioner has exercised
15 due diligence.

16 **SECTION 8.** 813.12 (4) (aj) of the statutes is amended to read:

17 813.12 (4) (aj) In determining whether to issue an injunction, the judge or
18 circuit court commissioner shall consider the potential danger posed to the petitioner
19 and the pattern of abusive conduct of the respondent but may not base his or her
20 decision solely on the length of time since the last domestic abuse or the length of time
21 since the relationship ended. The judge or circuit court commissioner may grant only
22 the remedies requested by the petitioner. The judge or circuit court commissioner
23 may not dismiss or deny granting an injunction because of the existence of a pending
24 action or of any other civil or criminal court order that ~~bars~~ includes provisions

1 regarding contact between the parties, nor due to the necessity of verifying the terms
2 of an existing court order.

3 **SECTION 9.** 813.12 (5) (a) 4. of the statutes is created to read:

4 813.12 (5) (a) 4. If the petitioner knows of any other civil or criminal court
5 proceeding in which the petitioner is a party to a court order or judgment that
6 includes provisions regarding contact with the respondent, any of the following that
7 are known by the petitioner:

8 a. The name or type of the court proceeding.

9 b. The date of the court proceeding.

10 c. The types of provisions regarding contact between the petitioner and
11 respondent.

12 **SECTION 10.** 813.12 (5g) of the statutes is created to read:

13 813.12 (5g) STIPULATION. If the parties enter into a stipulation to convert a
14 petition under this section to a petition for a temporary restraining order or
15 injunction under s. 813.125, the court may not approve that stipulation unless all of
16 the following occur:

17 (a) Either or both parties submit an oral request on the record for the
18 conversion explaining why the conversion of the petition is requested.

19 (b) The court informs the petitioner on the record of all of the following:

20 1. The requirements for granting a domestic abuse injunction as specified
21 under sub. (4) (a).

22 2. The definition of domestic abuse under sub. (1) (am).

23 3. The requirements for granting a harassment injunction as specified under
24 s. 813.125 (4) (a).

25 4. The definition of harassment under s. 813.125 (1).

1 5. The amount of time that a domestic abuse injunction shall be in effect if
2 granted is the amount of time that the petitioner requests under sub. (4) (c).

3 6. The amount of time that a harassment injunction may be in effect under s.
4 813.125 (4) (c).

5 7. The orders that may be made under sub. (4) and that shall be made under
6 sub. (4m) upon granting a domestic abuse injunction.

7 8. The orders that may be made under s. 813.125 (4) and (4m) upon granting
8 a harassment injunction.

9 9. The petitioner's right to refuse to enter into a stipulation to convert a petition
10 under this section to a petition under s. 813.125 and to continue under this section.

11 (c) The court includes on the record the court's explanation as to why the
12 granting of a temporary restraining order or injunction under this section is not
13 appropriate.

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

15 813.12 **(5m)** CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)
16 and the court order under sub. (3) or (4) ~~shall~~ may not disclose the address of the
17 alleged victim. The petitioner shall provide the clerk of circuit court with the
18 petitioner's address when he or she files a petition under this section. The clerk shall
19 maintain the petitioner's address in a confidential file.

20 **SECTION 12.** 813.122 (2) of the statutes is amended to read:

21 813.122 **(2)** COMMENCEMENT OF ACTION AND RESPONSE. No action under this
22 section may be commenced by complaint and summons. An action under this section
23 may be commenced only by a petition described under sub. (6) (a). The action
24 commences with service of the petition upon the respondent if a copy of the petition
25 is filed before service or promptly after service. The Notwithstanding s. 803.01 (3)

1 (a), the child victim or a parent, stepparent or legal guardian of the child victim may
2 be a petitioner under this section. Section 813.06 does not apply to an action under
3 this section. The respondent may respond to the petition either in writing before or
4 at the hearing on the issuance of the injunction or orally at that hearing. The court
5 shall inform the petitioner in writing as to which agency the petitioner should
6 contact to verify the proof of service of the petition.

7 **SECTION 13.** 813.122 (6) (a) 5. of the statutes is created to read:

8 813.122 (6) (a) 5. If the petitioner knows of any other civil or criminal court
9 proceeding in which the petitioner is a party to a court order or judgment that
10 includes provisions regarding contact with the respondent, any of the following that
11 are known by the petitioner:

- 12 a. The name or type of the court proceeding.
13 b. The date of the court proceeding.
14 c. The types of provisions regarding contact between the petitioner and
15 respondent.

16 **SECTION 14.** 813.123 (2) (a) of the statutes is amended to read:

17 813.123 (2) (a) No action under this section may be commenced by complaint
18 and summons. An action under this section may be commenced only by a petition
19 described under sub. (6). The action commences with service of the petition upon the
20 respondent if a copy of the petition is filed before service or promptly after service.
21 The individual at risk, any person acting on behalf of an individual at risk, an
22 elder-adult-at-risk agency, or an adult-at-risk agency may be a petitioner under
23 this section. If the petition is filed by a person other than the individual at risk, the
24 petitioner shall serve a copy of the petition on the individual at risk. Section 813.06
25 does not apply to an action under this section. The respondent may respond to the

1 petition either in writing before or at the hearing on the issuance of the injunction
2 or orally at that hearing. The court shall inform the petitioner in writing as to which
3 agency the petitioner should contact to verify the proof of service of the petition.

4 **SECTION 15.** 813.123 (6) (d) of the statutes is created to read:

5 813.123 (6) (d) If the petitioner knows of any other civil or criminal court
6 proceeding in which the petitioner is a party to a court order or judgment that
7 includes provisions regarding contact with the respondent, any of the following that
8 are known by the petitioner:

9 1. The name or type of the court proceeding.

10 2. The date of the court proceeding.

11 3. The type of provisions regarding contact between the petitioner and
12 respondent.

13 **SECTION 16.** 813.125 (2) of the statutes is renumbered 813.125 (2) (a) and
14 amended to read:

15 813.125 (2) (a) An action under this section may be commenced by filing a
16 petition described under sub. (5) (a). No action under this section may be commenced
17 by service of summons. The action commences with service of the petition upon the
18 respondent if a copy of the petition is filed before service or promptly after service.
19 If the judge or a circuit court commissioner extends the time for a hearing under sub.
20 (3) (c) and the petitioner files an affidavit with the court stating that personal service
21 by the sheriff or a private server under s. 801.11 (1) (a) or (b) was unsuccessful
22 because the respondent is avoiding service by concealment or otherwise, the judge
23 or circuit court commissioner shall inform the petitioner that he or she may serve the
24 respondent by publication of a summary of the petition as a class 1 notice, under ch.
25 985, and by mailing or sending a facsimile if the respondent's post-office address or

1 facsimile number is known or can with due diligence be ascertained. The mailing or
2 sending of a facsimile may be omitted if the post-office address or facsimile number
3 cannot be ascertained with due diligence. A summary of the petition published as
4 a class 1 notice shall include the name of the respondent and of the petitioner, notice
5 of the temporary restraining order, and notice of the date, time, and place of the
6 hearing regarding the injunction. The court shall inform the petitioner in writing
7 as to which agency the petitioner should contact to verify the proof of service of the
8 petition. Section 813.06 does not apply to an action under this section.

9 **SECTION 17.** 813.125 (2) (b) of the statutes is created to read:

10 813.125 (2) (b) Notwithstanding s. 803.01 (3) (a), a child, as defined in s.
11 813.122 (1) (b), or a parent, stepparent, or legal guardian of a child may be a
12 petitioner under this section.

13 **SECTION 18.** 813.125 (2g) of the statutes is created to read:

14 813.125 (2g) APPOINTMENT OF GUARDIAN AD LITEM. The court or circuit court
15 commissioner, on its or his or her own motion, or on the motion of any party, may
16 appoint a guardian ad litem for a child who is the petitioner under this section when
17 justice so requires.

18 **SECTION 19.** 813.125 (2m) of the statutes is created to read:

19 813.125 (2m) TWO-PART PROCEDURE. The procedure for an action under this
20 section is in 2 parts. First, if the petitioner requests a temporary restraining order
21 the court shall issue or refuse to issue that order. Second, the court shall hold a
22 hearing under sub. (4) on whether to issue an injunction, which is the final relief.
23 If the court issues a temporary restraining order, the order shall set forth the date
24 for the hearing on an injunction. If the court does not issue a temporary restraining
25 order, the date for the hearing shall be set upon motion by either party.

SECTION 20

1 **SECTION 20.** 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 14 days after
5 the temporary restraining order is issued, unless the time is extended upon ~~the~~
6 ~~written consent of the parties~~ motion of the petitioner or extended once for 14 days
7 upon a finding that the respondent has not been served with a copy of the temporary
8 restraining order although the petitioner has exercised due diligence.

9 **SECTION 21.** 813.125 (3) (d) of the statutes is created to read:

10 813.125 (3) (d) The judge or circuit court commissioner shall advise the
11 petitioner of the right to serve the respondent the petition by published notice if with
12 due diligence the respondent cannot be served as provided under s. 801.11 (1) (a) or
13 (b). The clerk of circuit court shall assist the petitioner with the preparation of the
14 notice and filing of the affidavit of printing.

15 **SECTION 22.** 813.125 (3) (e) of the statutes is created to read:

16 813.125 (3) (e) The judge or circuit court commissioner may not dismiss or deny
17 granting a temporary restraining order because of the existence of a pending action
18 or of any other civil or criminal court order that includes provisions regarding contact
19 between the parties, nor due to the necessity of verifying the terms of an existing
20 court order.

21 **SECTION 23.** 813.125 (4) (aj) of the statutes is created to read:

22 813.125 (4) (aj) The judge or circuit court commissioner may grant only the
23 remedies requested by the petitioner. The judge or circuit court commissioner may
24 not dismiss or deny granting an injunction because of the existence of a pending
25 action or of any other civil or criminal court order that includes provisions regarding

1 contact between the parties, nor due to the necessity of verifying the terms of an
2 existing court order.

3 **SECTION 24.** 813.125 (5) (a) 4. of the statutes is created to read:

4 813.125 (5) (a) 4. If the petitioner knows of any other civil or criminal court
5 proceeding in which the petitioner is a party to a court order or judgment that
6 includes provisions regarding contact with the respondent, any of the following that
7 are known by the petitioner:

8 a. The name or type of the court proceeding.

9 b. The date of the court proceeding.

10 c. The type of provisions regarding contact between the petitioner and
11 respondent.

12 **SECTION 25.** 813.125 (5g) (c) of the statutes is created to read:

13 813.125 (5g) (c) If an order is issued under this section, upon request by the
14 petitioner the court or circuit court commissioner shall order the sheriff to
15 accompany the petitioner and assist in placing him or her in physical possession of
16 his or her residence or to otherwise assist in executing or serving the temporary
17 restraining order or injunction. The petitioner may, at the petitioner's expense, use
18 a private process server to serve papers on the respondent.

19 **SECTION 26.** 813.125 (5g) (d) of the statutes is created to read:

20 813.125 (5g) (d) The issuance of an order or injunction under sub. (3) or (4) is
21 enforceable despite the existence of any other criminal or civil order restricting or
22 prohibiting contact.

23 **SECTION 27.** 813.125 (5m) of the statutes is amended to read:

24 813.125 (5m) CONFIDENTIALITY OF VICTIM'S ADDRESS. The petition under sub. (5)
25 and the court order under sub. (3) or (4) shall may not disclose the address of the

1 alleged victim. The petitioner shall provide the clerk of circuit court with the
2 petitioner's address when he or she files a petition under this section. The clerk shall
3 maintain the petitioner's address in a confidential file.

4 SECTION 28. 813.126 of the statutes is created to read:

5 **813.126 Review of petitions; hearing before a judge.** (1) When a person
6 contacts the clerk of circuit court inquiring about filing a petition for a temporary
7 restraining order or injunction under s. 813.12, 813.122, 813.123, or 813.125, the
8 clerk shall provide the person with a document prepared by the director of state
9 courts that informs the person of the types of restraining orders and injunctions, who
10 is eligible for each type of order and injunction, the remedies available under each
11 order and injunction, and the process necessary to obtain an order or injunction in
12 that county. The director of state courts shall, with the assistance of each county,
13 prepare the document required under this subsection and provide sufficient copies
14 to ~~each county~~ ^{of the circuit courts} without charge.

15 (2) When a person submits a petition to the court under s. 813.12, 813.122,
16 813.123, or 813.125, the court shall review, rule on, and return the petition within
17 2 normal business hours after receipt of the petition. If the court is unable to review
18 the petition within the 2-hour period, the clerk of circuit court shall make
19 arrangements for the review by another court within the 2-hour period.

20 (3) If the court denies a request for a temporary restraining order, the court
21 shall file a written record of the ~~(dismissal)~~ ^{denial} that includes the name ~~of~~ ^{of} the petitioner
22 and the reason for the ~~(dismissal)~~ ^{denial}. The court shall provide the petitioner with a copy
23 of the record of the ~~(dismissal)~~ ^{denial}.

insert anl:

This bill make³ numerous changes in the laws concerning petitions for temporary restraining orders and injunctions related to domestic abuse, child abuse, adult at risk, or harassment.

Under current law, if a person wants a judge to review a decision of a circuit court commissioner, the person submits a motion to the circuit court asking for a hearing before the judge. The court conducts a de novo hearing meaning that the judge hears all of the evidence and arguments and makes a decision without regard to the commissioner's decision. Under this bill, a party seeking judicial review of a circuit court commissioner's decision regarding a petition for a domestic abuse, child abuse, adult at risk, or harassment temporary restraining order or injunction must file the motion with the court within 30 days after the court commissioner's decision. The bill requires the judge to hold the hearing on that motion within 15 working days after the hearing is requested.

The bill prohibits a circuit court in an action affecting the family, such as a divorce action, to enter any order that conflicts with an order entered by a circuit court regarding a temporary restraining order or injunction for domestic abuse, child abuse, adult at risk, or harassment; with a contact prohibition issued in conjunction with a domestic abuse criminal action; or with a condition of probation, parole, extended supervision, or release.

The bill requires the circuit court to inform the petitioner of the agency that the person should contact to verify that the petition for a temporary restraining order or injunction for domestic abuse, child abuse, adult at risk, or harassment has been served on the respondent. Currently the circuit court judge or commissioner is prohibited from dismissing or denying a domestic abuse temporary restraining order or injunction because of the existence of a pending action or any court order that bars contact between the parties. The bill expands that prohibition to include any civil or criminal court order that includes provisions regarding contact between the parties.

The bill requires a petitioner seeking a domestic abuse, child abuse, adult at risk, or harassment temporary restraining order or injunction to include in the petition identifying information about any other civil or criminal court proceeding that has a court order that includes provisions regarding contact with the respondent the person who is the subject of the petition. (respondent)

The bill allows the circuit court to approve a stipulation to convert a domestic abuse petition to a harassment petition only if, on the record, one or both parties request the conversion, the court explains the differences between a harassment and domestic abuse injunction, and the court includes an explanation as to why granting a domestic abuse temporary restraining order or injunction is not appropriate.

The bill provides the same procedure for the service of a petition upon the respondent in an action for a harassment temporary restraining order or injunction as is provided in an action for a domestic abuse temporary restraining order or injunction. The bill also provides parallel language regarding the procedure for

STET
adult-at-risk

in the statutes



bringing an action for a harassment temporary restraining order or injunction, providing advice regarding service of the petition on the respondent, limiting the remedies to those petitioned for, and for ordering the sheriff to assist the petitioner in his or her residence as is provided in an action for a domestic abuse temporary ~~restraining order or injunction~~ (C)

Under the bill, a person under the age of 18, or the parent, stepparent, or legal guardian of the person may petition for a harassment temporary restraining order or injunction and the court may appoint a guardian ad litem for a child who is a petitioner.

The bill requires the clerk of circuit court to provide a person who contacts the circuit court about filing a petition for temporary restraining orders and injunctions for domestic abuse, child abuse, adult at risk, or harassment, with a document prepared by the director of state courts. The bill requires the document to describe the different types of temporary restraining orders and injunctions, who is eligible, the remedies available for each, and the process necessary to obtain one of the temporary restraining orders or injunctions. The director of state courts is required to provide sufficient copies to the courts without charge.

* Under the bill, the circuit court is required to review and rule on a petition for a temporary restraining order for domestic abuse, child abuse, adult at risk, or harassment within ~~of two~~ business hours after receipt of the petition. If the court is unable to do so, the bill requires the clerk of circuit court to make arrangements for another court to review the petition within the ~~of two~~ hour period. If the court denies the petition, the bill requires the court to file a written record of the denial that includes the name of the petitioner and the reason for the denial, and to provide the petitioner with a copy of that denial.

* FE - S/K

(end insert and)

Parisi, Lori

From: Murray, Mike
Sent: Friday, August 28, 2009 4:33 PM
To: Hurley, Peggy; Nelson, Robert P.
Cc: Hilton, Stephanie; Parisi, Lori
Subject: LRB 2016/P6- Harassment RO's

Hi Bob and Peggy,

Thanks so much for getting this draft done. I spoke w/Tony Gibart from WCADV and he said it looked good and was ready to introduce. I just wanted to let you know that Rep. Parisi wanted Rep. Hraychuck to take the lead sponsorship role on the bill, so our office is now going to release the bill to Rep. Hraychuck's office. I have copied Rep. Hraychuck's staffer, Stephanie Hilton, to this email.

Thanks again for all of your extensive help on this bill.

Mike

Mike Murray
Office of Representative Joe Parisi

Nelson, Robert P.

From: Gau, Maggie
Sent: Monday, January 04, 2010 3:00 PM
To: Nelson, Robert P.
Subject: LRB 2016

for Assembly

Hi Robert,

I believe that Mike from the Parisi office contacted you about our office taking over the responsibilities for LRB 2016.

If we could get a Senate companion drafted for Senator Taylor, in addition to getting the jacket for the bill, that would be wonderful.

Thank you!

Maggie

Maggie Gau
Office of Rep. Ann Hraychuck
608.267.2365 or 1.888.529.0028
Room 6 North State Capitol