

2009 DRAFTING REQUEST

Assembly Amendment (AA-ASA(LRBs0290/1)-AB680)

Received: **02/19/2010**

Received By: **rnelson2**

Wanted: **Today**

Identical to LRB:

For: **Ann Hraychuck (608) 267-2365**

By/Representing: **Maggie**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure
Courts - courts/judges/commsrs**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Time to request de novo hearing and child as party

Instructions:

P. 8, l. 25, change 15 days to 30

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> |
|--------------|------------------------|----------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /1 | rnelson2 02/24/2010 | bkraft 02/24/2010 | rschluet 02/24/2010 | _____ | lparisi 02/24/2010 | lparisi 02/24/2010 | |

FE Sent For:

<END>

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FE Sent For:

<END>

Nelson, Robert P.

From: Tony Gibart [tonyg@wcadv.org]
Sent: Wednesday, February 24, 2010 8:56 AM
To: Peterson, Eric
Cc: Nelson, Robert P.
Subject: FW: Judges' Legislative Committee Feedback on Sub Amendment

Hi Eric,
This is the change that the courts are requesting as simple amendment to the sub to SB 464:
page 6, line 16: delete "petitioner" and insert "party" in its place.

Hope we can get this ready for the floor for next week. Thank you for all of your work!

Tony

From: Tony Gibart
Sent: Monday, February 22, 2010 11:18 AM
To: Peterson, Eric; 'Gau, Maggie'
Subject: Judges' Legislative Committee Feedback on Sub Amendment

Eric and Maggie,

Nancy Rottier and I met on Friday to discuss the judges' feedback on the substitute amendment. The good news is that they like it much better and removed their opposition. During their meeting they raised three issues.

1. They felt that section 13, which directs the clerk to assist the harassment petitioner with preparing and filing of the affidavit of printing, is problematic because the clerks are arguably providing legal assistance. This process is required in the rare event that the respondent is served by publication. At the time of their discussion, the judges were not aware that this exact language already exists in the domestic abuse statute. Sara in court operations says the parrallel provision in the domestic abuse statute has not caused any problems. My understanding is that Nancy is going to ask the judges to drop their objection to this point in light of the fact the provision is already in statute.
2. Section 11 allows the court to appoint a guardian ad litem for a minor harassment restraining order petitioner. The judges felt the section should state that the court can appoint a GAL for both minor petitioners and respondents. The courts already have the authority to appoint GALs for minor respondents. Nancy and Sara both believe this power would be unaffected by the bill, but agree that it would be preferable if the statute said a GAL can be appointed for any party, as opposed to just the petitioner.

I suggest we change this in the assembly sub, and consider a simple amendment to the senate version.
3. One judge felt that the process in the bill for the conversion of domestic abuse RO petitions to harassment petitions would preclude the use of written stipulations. The other judges on the committee do not use written stipulations, and were surprised that the process was used at all. Nancy did not feel a change needed to be made to the bill.

Therefore, the Assembly sub requires two small changes:

1. page 6, line 16: delete "petitioner" and insert "party" in its place.
2. page 8, line 22, delete "15" and insert "30" (Bob Andersen's request)

Thanks,

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: Gau, Maggie
Sent: Friday, February 19, 2010 1:58 PM
To: Nelson, Robert P.
Subject: RE: Substitute Amendment to AB 680

Let's hold off on this amendment change. It looks like we're going to have to change a few more things. Please don't draft these changes until further notice.

Thank you.

Maggie

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

From: Gau, Maggie
Sent: Friday, February 19, 2010 1:33 PM
To: Nelson, Robert P.
Subject: Substitute Amendment to AB 680

We're going to need one minor change to the sub amendment. It is outlined in the analysis below. If I could just get a /2 of this amendment that would be wonderful.

Thanks for all your help.

Maggie

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

From: Tony Gibart [mailto:tonyg@wcadv.org]
Sent: Thursday, February 18, 2010 3:55 PM
To: Gau, Maggie
Subject: FW: memo

Maggie,

Below is Bob's memo on the minor change. The drafting instructions are at the very end. If we can get this wrapped in into the Assembly Sub, we should be good to go.

Thanks,

Tony

02/23/2010

Nelson, Robert P.

From: Gau, Maggie
Sent: Friday, February 19, 2010 1:33 PM
To: Nelson, Robert P.
Subject: Substitute Amendment to AB 680

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Thanks for all your help.

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Thanks,

Tony

TO: Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform and Housing
FROM: Bob Andersen
RE: SB 464, relating to Temporary Restraining Orders and Injunctions
DATE: February 18, 2010

We would like to respectfully request that you consider a simple amendment to the substitute amendment. The original bill provided that for a hearing de novo on a decision of the court commissioner, the person had to file the motion within 30 days and the court had to hold the hearing within 15 days after receiving the motion.

The substitute changed that provision to allow the courts 30 days to hold the hearing to give the courts more time. ***In the process, however, the time for filing the motion was reduced from 30 days to 15 days.*** I don't know whether that was inadvertent or that was intended.

In any event, giving a pro se person only 15 days to file the motion for a new trial makes it very difficult for a person who is not really familiar with the court process. It is difficult for a pro se party, who has probably gone through a very

02/19/2010

emotional experience, to have their wits about them when they walk out of the court room or to be thinking about how they can ask for a new trial. Fifteen days is just too short a time for them to be expected to know what to do.

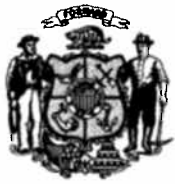
Local rules in Milwaukee County have a 15 day limit. But, where our clients miss that deadline, *we invoke the statute* that covers *all trials de novo* [757.69 (8)] which has *no time limit*:

(8) Any decision of a circuit court commissioner shall be reviewed by the judge of the branch of court to which the case has been assigned, upon motion of any party. Any determination, order, or ruling by a circuit court commissioner may be certified to the branch of court to which the case has been assigned, upon a motion of any party for a hearing de novo.

We think the 30 day time limit for filing a motion that was in the original bill was reasonable. Consequently, we would ask that you consider the following amendment to the substitute:

On page 8, line 22, delete "15" and insert "30"

Thank you for your consideration.



2/27
State of Wisconsin
2009 - 2010 LEGISLATURE

LRBa1608/1

RPN:.....

Lbjk

today

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT (LRBs0290/1),
TO 2009 ASSEMBLY BILL 680**

bh

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 6, line 16: delete "the petitioner" and substitute "a party".

3 **2.** Page 8, line 25: delete "15" and substitute "30".

4 (END)