



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 464

**Senate Substitute Amendment 1
and Senate Amendment 1 to
Substitute Amendment 1**

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Senate Substitute Amendment 1 amends the statutes relating to temporary restraining orders and injunctions as follows:

1. Under current law, a petitioner seeking an injunction in a domestic abuse case may ask the sheriff to serve the petition on the respondent. The substitute amendment provides that if this request is made, the court must inform the petitioner in writing that the petitioner should contact the sheriff to verify proof of service of the petition. The same amendment is made in the statutes relating to an injunction in a child abuse case and in a case in which an adult or an elder adult is at risk. Finally, the process by which a petition for an injunction is commenced in the three preceding situations is duplicated when commencing a proceeding for an injunction in a harassment case.
2. The Senate substitute amendment provides that, in a domestic abuse case, if the petitioner knows of any other court orders or judgments regarding contact between the petitioner and the respondent, the petitioner must provide this information to the court. The information includes the name or type of the other court proceedings; the date of the proceedings; and how contact between the parties is to be regulated. The same obligation is placed on a petitioner for an injunction in a child abuse case, in a case in which an adult or an elder adult is at risk, and in a harassment case.
3. The Senate substitute amendment provides that if the parties stipulate that a domestic abuse case will be converted into a proceeding seeking a harassment restraining order or injunction, the court may not approve the stipulation unless: (a) either or both parties provide an oral request on the record explaining why the conversion is requested; and (b) the court addresses the petitioner to determine voluntariness and whether the petitioner comprehends the differences between the two types of proceedings.
4. In a domestic abuse case, neither the petition nor the court may disclose the address of the alleged victim. The Senate substitute amendment provides that the petitioner's address must be given to

the clerk of circuit court who will keep the address confidential. The same amendment is made in the statute relating to harassment restraining orders and injunctions.

5. The Senate substitute amendment provides for all of the following in a harassment case:
 - a. A child, parent, stepparent, or legal guardian of a child may be a petitioner.
 - b. A guardian ad litem may be appointed for a child when justice requires.
 - c. If a fee is waived for filing a petition, the procedure is in two parts: a request for a temporary restraining order and a request for an injunction.
 - d. If the respondent cannot be personally served, a published notice may be used and the clerk of circuit court will assist the petitioner in publishing the notice.
 - e. An injunction may not be dismissed or denied because of the existence of a pending action, other court orders barring contact, or the necessity of verifying the terms of an existing court order.
 - f. Upon request of the petitioner, the sheriff will be ordered to assist in placing the petitioner in his or her residence and otherwise assist in executing and serving orders.
 - g. The issuance of an order or an injunction is enforceable despite the existence of any other criminal or civil order regarding contact between the parties.

6. The substitute amendment provides that if a party seeking a temporary restraining order or an injunction is dissatisfied with a decision of a court commissioner, the petitioner may receive a new review by a circuit court if a motion requesting the hearing is filed within 15 days after the decision. The court must hold the hearing within 30 days of the notice unless good cause is found for an extension. ***Senate Amendment 1*** to the substitute amendment provides that the motion for a new hearing must be made within 30 days of the court commissioner's decision.

Legislative History

On February 18, 2010, the Senate Committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing introduced and adopted Senate Substitute Amendment 1 and Senate Amendment 1 to the substitute amendment and recommended passage of the bill, as amended, all on votes of Ayes, 5; Noes, 0.

RS:jal