# 2013 DRAFTING REQUEST

Senate Amendment (SA-SB153)

Receiv	ed: 9/2	25/2013		]	Received By:	phurley	
Wanted	i: As	time permits		5	Same as LRB:		
For:	Je	rry Petrowski (60	8) 266-2502	]	By/Representing:	Lane	
May C	ontact:			]	Drafter:	phurley	
Subject: Criminal Law - domestic abuse				4	Addl. Drafters:		
				1	Extra Copies:		
Reques Carbor Pre To	cific pre to	: Sen.P ) to:	etrowski@leg	gis.wisconsi	n.gov		
<b>Topic:</b> Person		ion in restraining o	order cases				
Instru	ctions:						
See atta	ached						
Draftii	ng History	•					
Vers.	<u>Drafted</u>	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
<b>1</b>	phurley 9/25/2013	jdyer 9/26/2013	jfrantze 9/26/2013		mbarman 9/26/2013	mbarman 9/26/2013	
FE Sen	t For:						

<**END>** 

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Received:	9/25/2013	Received By:	phurley	
Wanted:	As time permits	Same as LRB:		
For:	Jerry Petrowski (608) 266-2502	By/Representing:	Lane	
May Contact:		Drafter:	phurley	
Subject:	Criminal Law - domestic abuse	Addl. Drafters:		
		Extra Copies:		
	mail: Sen.Petrowski@legi (CC) to:	is.wisconsin.gov		
Instructions:				
See attached				
<b>Drafting Hist</b>	ory:			
Vers. Drafte		Proofed Submitted	<u>Jacketed</u>	Required
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FE Sent For:				

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### State of Misconsin 2013 - 2014 LEGISLATURE



## **2013 SENATE BILL 153**

April 25, 2013 – Introduced by Senators Harsdorf, Kedzie, Carpenter, Gudex, Hansen, Jauch, Lassa, Lehman, Moulton, Olsen, Petrowski, Risser and Shilling, cosponsored by Representatives Loudenbeck, Ballweg, Berceau, Bernard Schaber, Bies, Billings, Born, Brooks, Endsley, Hebl, Hintz, Jacque, Kerkman, Kleefisch, T. Larson, Marklein, Murphy, Mursau, Ohnstad, A. Ott, Pridemore, Richards, Ripp, Schraa, Steineke, Strachota, Tittl, Wright and Swearingen. Referred to Committee on Transportation, Public Safety, and Veterans and Military Affairs.

AN ACT to create 801.05 (11m) and 813.015 of the statutes; relating to:
jurisdiction in matters relating to domestic abuse restraining orders and
injunctions, child abuse restraining orders and injunctions, and harassment
restraining orders and injunctions.

#### Analysis by the Legislative Reference Bureau

Under current law, a court may entertain a civil action only when the court has jurisdiction over the subject matter of the action and over the persons who are served in the action. Jurisdiction is conferred by the U.S. Constitution, the Wisconsin Constitution, and by statute.

This bill clarifies when a court has subject matter and personal jurisdiction in certain actions for restraining orders or injunctions in cases of domestic abuse, child abuse, or harassment. Under the bill, a court has jurisdiction of the subject matter to entertain those actions regardless of whether the alleged abuse or harassment occurred within the state. Under the bill, a court has personal jurisdiction over a person who is in another state if any of the following applies:

- 1. The abuse or harassment alleged in the action could have an effect in Wisconsin.
- 2. The petitioner or alleged child victim resides or is living temporarily in Wisconsin.
- 3. Jurisdiction is otherwise permissible under the constitution of the United States or of the state of Wisconsin.

#### **SENATE BILL 153**

If a court has personal jurisdiction on any of the listed grounds and a respondent has been served but does not appear or file a response or motion asserting the defense of lack of personal jurisdiction, the bill requires the court to hear the action.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

**Section 1.** 801.05 (11m) of the statutes is created to read:

801.05 (11m) CERTAIN RESTRAINING ORDERS OR INJUNCTIONS. (a) Subject to subch. II of ch. 822, and in addition to personal jurisdiction under sub. (1) and s. 801.06, in any action filed pursuant to s. 813.12, 813.122, or 813.125, if the abuse or harassment alleged in the action could have an effect in Wisconsin or the petitioner or alleged child victim resides or is living temporarily in Wisconsin, or if jurisdiction is otherwise permissible under the constitution of the United States or of the state of Wisconsin.

- (b) If a court has personal jurisdiction pursuant to par. (a) and a respondent has been served but does not appear or does not file a response or motion asserting the defense of lack of personal jurisdiction, the court shall hear the action. This paragraph does not limit the respondent's right to challenge personal jurisdiction on appeal.
  - SECTION 2. 813.015 of the statutes is created to read:
- 813.015 Subject matter jurisdiction. In an action filed pursuant to s. 813.12, 813.122, or 813.125, the court has jurisdiction of the subject matter under s. 801.04 regardless of whether the alleged abuse or harassment occurred within the state.

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#### Hurley, Peggy

From:

Oling, Lane

Sent:

Wednesday, September 25, 2013 4:03 PM

To: Subject: Hurley, Peggy RE: SB 135

Peggy,

As one amendment. Thank you!

Lane

From: Hurley, Peggy

Sent: Wednesday, September 25, 2013 4:03 PM

To: Oling, Lane Subject: RE: SB 135

Hi Lane,

I can draft those amendments – do you want them included in one amendment, or drafted as two separate amendments?

Peggy

From: Oling, Lane

Sent: Wednesday, September 25, 2013 4:01 PM

To: Hurley, Peggy Subject: SB 135

Good afternoon Peggy,

I'd like to draft an amendment to Senate Bill 153. The amendment would strike the language "if the abuse or harassment alleged in the action could have an effect in Wisconsin." The only way the court would have PJ under the amendment is if the person resides or temporarily lives in Wisconsin or it is "otherwise permissible under the constitution of the United States or of the State of Wisconsin," as is encompassed in current bill language. It seems if a person resides in Wisconsin, the first clause of that sentence is unnecessary, and if the person does not reside in Wisconsin, the law likely isn't applicable to them. Additionally, we would like the amendment to specifically allow a court to have the discretion to allow the respondent appear via teleconference or videoconference to avoid the respondent from having to travel all the way to Wisconsin or have no way to defend themselves.

Please let me know if you have any questions.

Thank you so much!

Lane Oling, J.D. Office of Senator Jerry Petrowski 29th Senate District (608) 266-2502



State of Misconsin 2013 - 2014 LEGISLATURE





SENATE AMENDMENT,
TO SENATE BILL 153

9.25.13

At the

At the locations indicated, amend the bill as follows:

- 1. Page 2, line 4: delete "the abuse or harassment".
- 2. Page 2, line 5: delete "alleged in the action could have an effect in Wisconsin or".
  - 3. Page 2, line 13: after that line insert:
- "(c) If a court has personal jurisdiction pursuant to par. (a), the court may allow a respondent who lives or resides in another state to testify on the record, or otherwise participate in any proceeding in the action, by telephone or live audiovisual means, as prescribed in s. 807.13. The request and the showing of good cause for admitting testimony by telephone or live audiovisual means may be made by telephone.".

(end)