



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBs0259/en  
SRM:kjf:...

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 464**

1        **AN ACT** *to repeal* 813.122 (5m) (am), 813.122 (5m) (aw), 813.122 (5m) (b) and (c),  
2            813.123 (5m) (e), (f), (g) and (h), 813.125 (4m) (cm), 813.125 (4m) (cw) and  
3            813.125 (4m) (d) and (e); **to renumber** 813.122 (2); **to renumber and amend**  
4            813.12 (4m) (am), 813.12 (4m) (aw), 813.12 (4m) (b), 813.12 (4m) (c), 813.123 (5)  
5            (a) 2. and 813.125 (4) (a) 2.; **to amend** 48.25 (6), 165.63 (3) and (4) (d), 813.12  
6            (3) (c), 813.12 (4m) (a) 1., 813.12 (4m) (a) 2., 813.122 (4) (c), 813.122 (5m) (a) 1.,  
7            813.122 (5m) (a) 2., 813.123 (4) (c), 813.123 (5m) (c) 1., 813.123 (5m) (c) 2.,  
8            813.123 (9) (c), 813.125 (3) (c), 813.125 (4m) (c) 1., 813.125 (4m) (c) 2., 813.125  
9            (6) (c) and 938.25 (6); and **to create** 785.01 (1) (br), 813.12 (2) (c), 813.122 (2)  
10           (b), 813.123 (5) (a) 2. a., b. and c., 813.125 (4) (a) 2. a., b. and c., 813.1285 and  
11           818.02 (9) of the statutes; **relating to:** providing notice of firearm prohibition  
12           when serving notice for certain injunction hearings and process for

1           surrendering firearms following the granting of certain injunctions and  
2           providing penalties.

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

3           **SECTION 1.** 48.25 (6) of the statutes is amended to read:

4           48.25 (6) If a proceeding is brought under s. 48.13, any party to or any  
5           governmental or social agency involved in the proceeding may petition the court to  
6           issue a temporary restraining order and injunction as provided in s. 813.122 or  
7           813.125. The court exercising jurisdiction under this chapter shall follow the  
8           procedure under s. 813.122 or 813.125 except that the court may combine hearings  
9           authorized under s. 813.122 or 813.125 and this chapter, the petitioner for the  
10          temporary restraining order and injunction is not subject to the limitations under s.  
11          813.122 (2) (a) or 813.125 (2) and no fee is required regarding the filing of the petition  
12          under s. 813.122 or 813.125.

13          **SECTION 1d.** 165.63 (3) and (4) (d) of the statutes, as created by 2013 Wisconsin  
14          Act .... (Assembly Bill 727), are amended to read:

15          165.63 (3) REQUESTS FOR INJUNCTIONS. In making a determination required  
16          under s. 813.12 (4m) (b), ~~813.122 (5m) (b), 813.123 (5m) (g), or 813.125 (4m) (d)~~  
17          813.1285 (7) (a), a judge or court commissioner shall request information under sub.  
18          (2) from the department or from a law enforcement agency or law enforcement officer  
19          as provided in sub. (4) (d).

20          (4) (d) Aid the court in making a determination required under s. ~~813.12 (4m)~~  
21          ~~(b), 813.122 (5m) (b), 813.123 (5m) (g), or 813.125 (4m) (d)~~ 813.1285 (7) (a).

22          **SECTION 2.** 785.01 (1) (br) of the statutes is created to read:

23          785.01 (1) (br) Violation of an order under s. 813.1285 (4) (b) 2.;

1           **SECTION 3.** 813.12 (2) (c) of the statutes is created to read:

2           813.12 (2) (c) When the respondent is served with the petition under this  
3 subsection, the person who serves the respondent shall also provide the respondent  
4 all of the following information:

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

7           2. An explanation of s. 813.1285, including the procedures for surrendering a  
8 firearm and the circumstances listed under s. 813.1285 under which a respondent  
9 must appear at a hearing to surrender firearms.

10          3. A firearm possession form developed under s. 813.1285 (5) (a), with  
11 instructions for completing and returning the form.

12          **SECTION 4.** 813.12 (3) (c) of the statutes is amended to read:

13          813.12 (3) (c) The temporary restraining order is in effect until a hearing is held  
14 on issuance of an injunction under sub. (4), except that the court may extend the  
15 temporary restraining order under s. 813.1285. The temporary restraining order is  
16 not voided if the respondent is admitted into a dwelling that the order directs him  
17 or her to avoid. A judge or circuit court commissioner shall hold a hearing on issuance  
18 of an injunction within 14 days after the temporary restraining order is issued,  
19 unless the time is extended upon the written consent of the parties or extended once  
20 for 14 days upon a finding that the respondent has not been served with a copy of the  
21 temporary restraining order although the petitioner has exercised due diligence.

22          **SECTION 5.** 813.12 (4m) (a) 1. of the statutes is amended to read:

23          813.12 (4m) (a) 1. Inform the respondent named in the petition of the  
24 requirements and penalties under s. 941.29 and any similar applicable federal laws  
25 and penalties.

1           **SECTION 6.** 813.12 (4m) (a) 2. of the statutes is amended to read:

2           813.12 (~~4m~~) (a) 2. Except as provided in par. (ag), require in writing the  
3 respondent to surrender any firearms that he or she owns or has in his or her  
4 possession to the sheriff of the county in which the action under this section was  
5 commenced, to the sheriff of the county in which the respondent resides or to another  
6 person designated by the respondent and approved by the judge or circuit court  
7 commissioner. ~~The judge or circuit court commissioner shall approve the person~~  
8 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
9 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
10 ~~If a firearm is surrendered to a person designated by the respondent and approved~~  
11 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~  
12 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~  
13 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

14           **SECTION 7.** 813.12 (4m) (am) of the statutes is renumbered 813.1285 (6) and  
15 amended to read:

16           813.1285 (**6**) (a) When a respondent surrenders a firearm under ~~par. (a) 2.~~ sub.  
17 (3) (a) 2. or (4) (b) 2. to a sheriff, the sheriff who is receiving the firearm shall prepare  
18 a receipt for each firearm surrendered to him or her. The receipt shall include the  
19 date on which the firearm was surrendered and the manufacturer, model, and serial  
20 number of the firearm surrendered to the sheriff and shall be signed by the  
21 respondent and by the sheriff to whom the firearm is surrendered.

22           (b) The sheriff shall keep the original of a receipt prepared under ~~subd. 1. par.~~  
23 (a) and shall provide ~~an exact copy~~ 2 copies of the receipt to the respondent. The  
24 respondent shall provide one copy of the receipt to the clerk of courts within 48 hours  
25 of the order to surrender firearms. When the firearm covered by the receipt is

1 returned to the respondent under ~~par. (b)~~ sub. (7), the sheriff shall surrender to the  
2 respondent the original receipt and all of his or her copies of the receipt.

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

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

10 **SECTION 8.** 813.12 (4m) (aw) of the statutes is renumbered 813.1285 (6) (e) 1.  
11 and amended to read:

12 813.1285 (6) (e) 1. A sheriff may store a firearm surrendered to him or her  
13 under ~~par. (a) 2. sub. (3) (a) 2. or (4) (b) 2.~~ in a warehouse that is operated by a public  
14 warehouse keeper licensed under ch. 99. If a sheriff stores a firearm at a warehouse  
15 under this ~~paragraph~~ subdivision, the respondent shall pay the costs charged by the  
16 warehouse for storing that firearm.

17 **SECTION 9.** 813.12 (4m) (b) of the statutes is renumbered 813.1285 (7) (a), and  
18 813.1285 (7) (a) (intro.) and 1., as renumbered, are amended to read:

19 813.1285 (7) (a) (intro.) A firearm surrendered under ~~par. (a) 2.~~ this section may  
20 not be returned to the respondent until the respondent completes a petition for the  
21 return of firearms and a judge or circuit court commissioner determines all of the  
22 following:

23 1. That the injunction ~~issued under sub. (4)~~ has been vacated or has expired and  
24 not been extended.

1           **SECTION 10.** 813.12 (4m) (c) of the statutes is renumbered 813.1285 (7) (b) and  
2 amended to read:

3           813.1285 (7) (b) If a respondent surrenders a firearm under ~~par. (a) 2.~~ this  
4 section that is owned by a person other than the respondent, the person who owns  
5 the firearm may apply for its return to the circuit court for the county in which the  
6 person to whom the firearm was surrendered is located. The court shall order such  
7 notice as it considers adequate to be given to all persons who have or may have an  
8 interest in the firearm and shall hold a hearing to hear all claims to its true  
9 ownership. If the right to possession is proved to the court's satisfaction, it shall  
10 order the firearm returned. If the court returns a firearm under this paragraph, the  
11 court shall inform the person to whom the firearm is returned of the requirements  
12 and penalties under s. 941.29 (4).

13           **SECTION 11.** 813.122 (2) of the statutes is renumbered 813.122 (2) (a).

14           **SECTION 12.** 813.122 (2) (b) of the statutes is created to read:

15           813.122 (2) (b) When the respondent is served with the petition under this  
16 subsection, the person who serves the respondent shall also provide the respondent  
17 with all of the following information:

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

20           2. An explanation of s. 813.1285, including the procedures for surrendering a  
21 firearm and the circumstances listed under s. 813.1285 under which a respondent  
22 must appear at a hearing to surrender firearms.

23           3. A firearm possession form developed under s. 813.1285 (5) (a), with  
24 instructions for completing and returning the form.

25           **SECTION 13.** 813.122 (4) (c) of the statutes is amended to read:

1           813.122 (4) (c) The temporary restraining order is in effect until a hearing is  
2 held on issuance of an injunction under sub. (5), except that the court may extend the  
3 temporary restraining order under s. 813.1285. A judge shall hold a hearing on  
4 issuance of an injunction within 14 days after the temporary restraining order is  
5 issued, unless the time is extended upon the written consent of the parties or  
6 extended once for 14 days upon a finding that the respondent has not been served  
7 with a copy of the temporary restraining order although the petitioner has exercised  
8 due diligence.

9           **SECTION 14.** 813.122 (5m) (a) 1. of the statutes is amended to read:

10           813.122 (5m) (a) 1. Inform the respondent named in the petition of the  
11 requirements and penalties under s. 941.29 and any similar applicable federal laws  
12 and penalties.

13           **SECTION 15.** 813.122 (5m) (a) 2. of the statutes is amended to read:

14           813.122 (5m) (a) 2. Except as provided in par. (ag), require in writing the  
15 respondent to surrender any firearms that he or she owns or has in his or her  
16 possession to the sheriff of the county in which the action under this section was  
17 commenced, to the sheriff of the county in which the respondent resides or to another  
18 person designated by the respondent and approved by the judge or circuit court  
19 commissioner. ~~The judge or circuit court commissioner shall approve the person~~  
20 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
21 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
22 ~~If a firearm is surrendered to a person designated by the respondent and approved~~  
23 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~  
24 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~  
25 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

1           **SECTION 16.** 813.122 (5m) (am) of the statutes is repealed.

2           **SECTION 17.** 813.122 (5m) (aw) of the statutes is repealed.

3           **SECTION 18.** 813.122 (5m) (b) and (c) of the statutes are repealed.

4           **SECTION 18g.** 813.123 (4) (c) of the statutes is amended to read:

5           813.123 (4) (c) The temporary restraining order is in effect until a hearing is  
6 held on issuance of an injunction under sub. (5), except that the court may extend the  
7 temporary restraining order under s. 813.1285. A judge shall hold a hearing on  
8 issuance of an injunction within 14 days after the temporary restraining order is  
9 issued, unless the time is extended upon the written consent of the parties or  
10 extended once for 14 days upon a finding that the respondent has not been served  
11 with a copy of the temporary restraining order although the petitioner has exercised  
12 due diligence.

13           **SECTION 18i.** 813.123 (5) (a) 2. of the statutes is renumbered 813.123 (5) (a) 2.  
14 (intro.) and amended to read:

15           813.123 (5) (a) 2. (intro.) The petitioner serves upon the respondent a copy of  
16 the petition and notice of the time for hearing on the issuance of the injunction, or  
17 the respondent serves upon the petitioner notice of the time for hearing on the  
18 issuance of the injunction. The notice served under this subdivision shall inform the  
19 respondent that, if the judge or circuit court commissioner issues an injunction, the  
20 judge or circuit court commissioner may also order the respondent not to possess a  
21 firearm while the injunction is in effect. The person who serves the respondent with  
22 the notice shall also provide the respondent with all of the following information:

23           **SECTION 18k.** 813.123 (5) (a) 2. a., b. and c. of the statutes are created to read:

24           813.123 (5) (a) 2. a. Notice of the requirements and penalties under s. 941.29  
25 (1) (g) and (2) (d) and notice of any similar applicable federal laws and penalties.



1           b. An explanation of s. 813.1285, including the procedures for surrendering a  
2 firearm and the circumstances listed under s. 813.1285 under which a respondent  
3 must appear at a hearing to surrender firearms.

4           c. A firearm possession form developed under s. 813.1285 (5) (a), with  
5 instructions for completing and returning the form.

6           **SECTION 18n.** 813.123 (5m) (c) 1. of the statutes, as created by 2013 Wisconsin  
7 Act .... (Assembly Bill 727), is amended to read:

8           813.123 (**5m**) (c) 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 18p.** 813.123 (5m) (c) 2. of the statutes, as created by 2013 Wisconsin  
12 Act .... (Assembly Bill 727), is amended to read:

13           813.123 (**5m**) (c) 2. Except as provided in par. (d), require in writing the  
14 respondent to surrender any firearms that he or she owns or has in his or her  
15 possession to the sheriff of the county in which the action under this section was  
16 commenced, to the sheriff of the county in which the respondent resides, or to another  
17 person designated by the respondent and approved by the judge or circuit court  
18 commissioner. ~~The judge or circuit court commissioner shall approve the person~~  
19 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
20 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
21 ~~If a firearm is surrendered to a person designated by the respondent and approved~~  
22 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~  
23 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~  
24 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

1           **SECTION 18r.** 813.123 (5m) (e), (f), (g) and (h) of the statutes, as created by 2013  
2 Wisconsin Act .... (Assembly Bill 727), are repealed.

3           **SECTION 18t.** 813.123 (9) (c) of the statutes is amended to read:

4           813.123 **(9)** (c) A respondent who does not appear at a hearing at which the  
5 court orders an injunction under sub. (5) but who has been served with a copy of the  
6 petition and notice of the time for hearing under sub. (5) (a) 2. that includes the  
7 information required under sub. (5) (a) 2. a., b., and c. has constructive knowledge  
8 of the existence of the injunction and may be arrested for violation of the injunction  
9 regardless of whether he or she has been served with a copy of the injunction.

10          **SECTION 19.** 813.125 (3) (c) of the statutes is amended to read:

11          813.125 **(3)** (c) The temporary restraining order is in effect until a hearing is  
12 held on issuance of an injunction under sub. (4), except that the court may extend the  
13 temporary restraining order under s. 813.1285. A judge or circuit court  
14 commissioner shall hold a hearing on issuance of an injunction within 14 days after  
15 the temporary restraining order is issued, unless the time is extended upon the  
16 written consent of the parties or extended once for 14 days upon a finding that the  
17 respondent has not been served with a copy of the temporary restraining order  
18 although the petitioner has exercised due diligence.

19          **SECTION 20.** 813.125 (4) (a) 2. of the statutes is renumbered 813.125 (4) (a) 2.  
20 (intro.) and amended to read:

21          813.125 **(4)** (a) 2. (intro.) The petitioner serves upon the respondent a copy of  
22 a 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 restraining order or notice of  
24 hearing served under this subdivision shall inform the respondent that, if the judge  
25 or circuit court commissioner issues an injunction, the judge or circuit court

1 commissioner may also order the respondent not to possess a firearm while the  
2 injunction is in effect. The person who serves the respondent with the order or notice  
3 shall also provide the respondent with all of the following information:

4 **SECTION 21.** 813.125 (4) (a) 2. a., b. and c. of the statutes are created to read:

5 813.125 (4) (a) 2. a. Notice of the requirements and penalties under s. 941.29  
6 (1) (g) and (2) (d) and notice of any similar applicable federal laws and penalties.

7 b. An explanation of s. 813.1285, including the procedures for surrendering a  
8 firearm and the circumstances listed under s. 813.1285 under which a respondent  
9 must appear at a hearing to surrender firearms.

10 c. A firearm possession form developed under s. 813.1285 (5) (a), with  
11 instructions for completing and returning the form.

12 **SECTION 22.** 813.125 (4m) (c) 1. of the statutes is amended to read:

13 813.125 (4m) (c) 1. Inform the respondent named in the petition of the  
14 requirements and penalties under s. 941.29 and any similar applicable federal laws  
15 and penalties.

16 **SECTION 23.** 813.125 (4m) (c) 2. of the statutes is amended to read:

17 813.125 (4m) (c) 2. Except as provided in par. (cg), require in writing the  
18 respondent to surrender any firearms that he or she owns or has in his or her  
19 possession to the sheriff of the county in which the action under this section was  
20 commenced, to the sheriff of the county in which the respondent resides or to another  
21 person designated by the respondent and approved by the judge or circuit court  
22 commissioner. ~~The judge or circuit court commissioner shall approve the person~~  
23 ~~designated by the respondent unless the judge or circuit court commissioner finds~~  
24 ~~that the person is inappropriate and places the reasons for the finding on the record.~~  
25 ~~If a firearm is surrendered to a person designated by the respondent and approved~~

1 ~~by the judge or circuit court commissioner, the judge or circuit court commissioner~~  
2 ~~shall inform the person to whom the firearm is surrendered of the requirements and~~  
3 ~~penalties under s. 941.29 (4), in accordance with s. 813.1285.~~

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

5 **SECTION 25.** 813.125 (4m) (cw) of the statutes is repealed.

6 **SECTION 26.** 813.125 (4m) (d) and (e) of the statutes are repealed.

7 **SECTION 27.** 813.125 (6) (c) of the statutes is amended to read:

8 813.125 (6) (c) A respondent who does not appear at a hearing at which the  
9 court orders an injunction under sub. (4) but who has been served with a copy of the  
10 petition and notice of the time for hearing under sub. (4) (a) 2. that includes the  
11 information required under sub. (4) (a) 2. a., b., and c. has constructive knowledge  
12 of the existence of the injunction and shall be arrested for violation of the injunction  
13 regardless of whether he or she has been served with a copy of the injunction.

14 **SECTION 28.** 813.1285 of the statutes is created to read:

15 **813.1285 Notice and process for firearm surrender.** (1) DEFINITIONS. In  
16 this section:

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

18 (am) “Injunction” means an injunction issued under s. 813.12 (4) or 813.122 (5);  
19 an injunction issued under s. 813.123 if the court has required the individual to  
20 surrender his or her firearms under s. 813.123 (5m); or an injunction issued under  
21 s. 813.125 if the court has required the individual to surrender his or her firearms  
22 under s. 813.125 (4m). “Injunction” includes an injunction that has been stayed  
23 under this section.

24 (b) “Petitioner” means an individual who is applying for, or for whom a court  
25 has granted, an injunction.

1 (c) “Petition for the return of firearms” means a petition developed under sub.  
2 (5) (b).

3 (d) “Respondent” means the individual who is the subject of an injunction.

4 (e) “Surrender and extend order” means an order under sub. (1g).

5 **(1g) SURRENDER AND EXTEND ORDER.** If the court issues a surrender and extend  
6 order, the court shall do all of the following:

7 (a) Order the respondent to surrender, within a period that is no longer than  
8 48 hours, any firearm that he or she owns or possesses to the sheriff or, in the court’s  
9 discretion, to another person.

10 (b) Order that the respondent may possess or transport a firearm only for the  
11 purpose of complying with par. (a).

12 (c) If the court stays an injunction, order the respondent subject to a temporary  
13 restraining order during the stay of the injunction and extend the temporary  
14 restraining order for a period of 48 hours for the purpose of firearm surrender.

15 (d) Inform the respondent when the injunction will take effect and the penalty  
16 for possessing a firearm while the injunction is in effect.

17 (e) Instruct the respondent how to surrender any firearm.

18 (f) If appropriate, order the respondent to attend a hearing to surrender  
19 firearms.

20 **(1m) TEMPORARY RESTRAINING ORDERS.** If the court is required to extend a  
21 temporary restraining order under this section, and a temporary restraining order  
22 was not previously granted, the court shall, on its own motion, reconsider and grant  
23 the temporary restraining order.

24 **(2) FIREARM POSSESSION DETERMINATION.** (a) If the respondent is present at the  
25 injunction hearing, the court shall stay the injunction for a period not to exceed 48

1 hours and shall extend the temporary restraining order for 48 hours for the purpose  
2 of firearm surrender. The respondent shall provide the court a completed firearm  
3 possession form. The court shall verify the information on the firearm possession  
4 form and shall make an inquiry on the record as to the contents of the firearm  
5 possession form.

6 (b) If the respondent is not present at the injunction hearing, the court shall  
7 provide the petitioner with an opportunity to inform the court orally or in writing  
8 whether he or she believes that the respondent possesses a firearm. If the petitioner  
9 informs the court that the respondent possesses a firearm, the court shall request the  
10 petitioner to inform the court orally or in writing how many firearms he or she  
11 believes the respondent possesses, the make and model of any firearm he or she  
12 believes the respondent possesses, and the location of any firearm he or she believes  
13 the respondent possesses.

14 (c) 1. If the firearm possession form submitted to the court under par. (a) or (b)  
15 indicates the respondent does not possess a firearm, and the court, after an inquiry,  
16 is satisfied that the respondent does not possess a firearm, the court shall file the  
17 firearm possession form, lift the stay of the injunction, and dismiss the temporary  
18 restraining order extended under par. (a).

19 2. If, under par. (a), the firearm possession form submitted to the court  
20 indicates the respondent possesses a firearm, and the respondent has not  
21 surrendered his or her firearm as described under sub. (3) (a), the court shall  
22 continue to stay the injunction as provided under par. (a) for a period not to exceed  
23 48 hours, issue a surrender and extend order, and schedule a hearing to surrender  
24 firearms to occur within one week of the injunction hearing.

1           3. If, under par. (b), the petitioner indicates that the respondent possesses a  
2 firearm or if the court is not satisfied under subd. 1. that the respondent does not  
3 possess a firearm, the court shall schedule a hearing to surrender firearms to occur  
4 within one week of the injunction hearing. The court shall do one of the following:

5           a. Continue the stay under par. (a) of the injunction and issue a surrender and  
6 extend order.

7           b. Lift the stay of the injunction.

8           4. The court may schedule a hearing to surrender firearms for any reason  
9 relevant to the surrender of firearms.

10           **(3) SURRENDER OF FIREARMS.** (a) Unless the court has noted another reason that  
11 is relevant to the surrender of firearms that would require the hearing to surrender  
12 firearms to occur, the court shall dismiss the hearing to surrender firearms  
13 scheduled under sub. (2) (c) 2. or 3. if the respondent surrenders his or her firearm  
14 in one of the following manners:

15           1. The respondent surrenders his or her firearm to another person and all of  
16 the following apply:

17           a. The respondent and the person to whom the respondent is surrendering his  
18 or her firearm appear at the injunction hearing.

19           b. At the injunction hearing, the person testifies under oath that the person has  
20 received the firearms listed on the respondent's firearm possession form.

21           c. At the injunction hearing, the court determines that the person is not  
22 prohibited from possessing a firearm.

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

1 e. The court, after considering all relevant factors and any input from the  
2 petitioner, approves the surrender of the firearm.

3 f. The court does not use the process under subd. 3.

4 2. The respondent surrenders his or her firearm to a sheriff no later than 48  
5 hours after the injunction hearing ordering the respondent to surrender his or her  
6 firearm and provides a copy of the receipt to the clerk of courts as provided in sub.  
7 (6) (b).

8 3. The respondent surrenders his or her firearm to a sheriff as provided under  
9 subd. 2., and a person who appeared at the injunction hearing takes possession of the  
10 firearm from the sheriff, if all of the following apply:

11 a. Subdivision 1. d. and e. apply.

12 b. The sheriff determines that the person is not prohibited from possessing a  
13 firearm.

14 (b) If the court approves the surrender under par. (a) 1., and if the court has  
15 issued a surrender and extend order and has stayed the injunction, the court shall  
16 lift the stay and dismiss the temporary restraining order.

17 **(4) HEARING TO SURRENDER FIREARMS.** (a) Unless the court dismisses the hearing  
18 to surrender firearms, a respondent for whom a hearing to surrender firearms has  
19 been scheduled must attend the hearing. If the respondent fails to attend the  
20 hearing to surrender firearms, the court shall issue an arrest warrant for the  
21 respondent.

22 (b) At the hearing to surrender firearms, the court shall stay the injunction for  
23 a period not to exceed 48 hours, shall extend the temporary restraining order for 48  
24 hours, shall ensure that the respondent has completed a firearm possession form and  
25 verify the information provided on the firearm possession form if the information



1 was not already verified under sub. (2) (a), shall make an inquiry on the record as  
2 to the contents of the firearm possession form, and shall do one of the following:

3 1. If the respondent wants to surrender his or her firearms to a person who is  
4 not the sheriff and who appears at the hearing to surrender firearms, and if the court,  
5 after considering all relevant factors and input from the petitioner, approves the  
6 surrender and informs the person to whom the firearms are surrendered of the  
7 requirements and penalties under s. 941.29 (4), order the respondent to surrender  
8 his or her firearms in one of the following ways:

9 a. To the person, after the person testifies under oath that he or she has received  
10 the firearms listed on the respondent's firearm possession form and after the court  
11 determines that the person is not prohibited from possessing a firearm.

12 b. To the sheriff, who shall transfer the firearms to the person after determining  
13 that the person is not prohibited from possessing a firearm.

14 1m. If the respondent claims to have surrendered his or her firearms to the  
15 sheriff in accordance with sub. (6), verify that the respondent has surrendered all  
16 such firearms, lift the stay of the injunction, and dismiss the temporary restraining  
17 order.

18 2. Order the respondent to surrender any firearm that the court finds the  
19 respondent owns or possesses to a sheriff in accordance with sub. (6). If the  
20 respondent has not provided to the court, within 48 hours of the hearing to surrender  
21 firearms, a receipt as specified in sub. (6) (b) that shows surrender of all of the  
22 firearms that were subject to the order, the court shall presume the respondent is  
23 violating the order and the injunction and may do any of the following:

24 a. Notify the sheriff of the violation for investigation and appropriate action.

25 b. Schedule another hearing to surrender firearms.

1 c. Issue a warrant to the sheriff ordering that the respondent be brought before  
2 the court to show cause why the respondent should not be held in contempt.

3 3. a. If, under subd. 1. b. or 2., the court orders the respondent to surrender his  
4 or her firearms to the sheriff, the court shall issue a surrender and extend order.

5 b. If, under subd. 1. a., the court orders the respondent to surrender his or her  
6 firearms to a person who is not the sheriff, the court shall lift any stay of the  
7 injunction and dismiss the temporary restraining order.

8 4. If the firearm possession form indicates that the respondent does not possess  
9 a firearm, and the court, after an inquiry, is satisfied that the respondent does not  
10 possess a firearm, the court shall file the firearm possession form, lift any stay of the  
11 injunction, and dismiss the temporary restraining order.

12 **(5) FIREARM POSSESSION FORM AND PETITION FOR THE RETURN OF FIREARMS.** (a) The  
13 director of state courts shall develop a firearm possession form. Any false  
14 information provided on the form by the respondent may be subject to a penalty of  
15 false swearing under s. 946.32. The director of state courts shall ensure that the  
16 firearm possession form does all of the following:

17 1. Requires the respondent to list his or her name and address.

18 2. Includes space for the respondent's signature and date signed.

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

24 4. Gives notice of the penalty for false swearing under s. 946.32.

1 (b) The director of state courts shall develop a petition for the return of firearms  
2 in substantially the following form:

3 STATE OF WISCONSIN

4 IN CIRCUIT COURT FOR ... COUNTY

5 Petition to Return Firearm(s)

6 In re the Return of Firearms to (name of person required to surrender firearms  
7 in an injunction action)

8 Requesting person's information: date of birth, sex, race, height, weight, hair  
9 color, eye color, address, and phone number.

10 Under oath I state that:

11 1. The court issued an injunction against me on (date of injunction). The  
12 injunction was issued based on a:

13 Domestic Abuse petition.

14 Child Abuse petition.

15 Harassment petition.

16 Adult-at-risk petition.

17 2. The court ordered me to surrender any firearms I owned or had in my  
18 possession to:

19 the sheriff of this county.

20 the sheriff of the county in which I resided, which is (name of county).

21 to the following person (whether directly or indirectly through a sheriff):

22 name:

23 address:

1           3. I surrendered the following firearms as provided in item 2 and have attached  
2 a receipt from the sheriff or from the 3rd person (if the person did not provide a  
3 receipt, attach a description of the firearm(s)):

4           4. The injunction has (been vacated) (expired and has not been extended).

5           5. I (have) (have not) been convicted of a misdemeanor crime of domestic  
6 violence.

7           6. I (have) (have not) been convicted of a felony.

8           7. I am not prohibited from possessing a firearm under any state or federal law  
9 or by the order of any federal court or state court, other than an order from which a  
10 judge or family court commissioner is competent to grant relief.

11           I request that the court enter an order directing that the person named under  
12 item 2 return to me those firearms that were surrendered under the order of the  
13 court.

14           Subscribed and sworn to before me on (date)

15           (Signature of person requesting return of firearms)

16           (Signature of notary public, state of Wisconsin)

17           My commission expires on (date)

18           Dated this .... day of ....., .... (year)

19           Distribution:

20           1. Court – original   2. Petitioner in injunction action   3. Person to whom  
21 firearm(s) were surrendered

22           **(5m)** NOTIFICATION TO LOCAL LAW ENFORCEMENT. (a) Within one business day  
23 after the court issues an order, extends or modifies a temporary restraining order, or  
24 stays or lifts a stay on an injunction under this section, the clerk of the circuit court  
25 shall send a copy of the order, the extension or modification, or the stay or lift to the

1 sheriff or to any other local law enforcement agency that is the repository for such  
2 actions and that has jurisdiction over the premises of the petitioner.

3 (b) No later than 24 hours after receiving the information under par. (a), the  
4 sheriff or other local law enforcement agency under par. (a) shall enter the  
5 information concerning the order issued, the extension or modification, or the stay  
6 or lift of the injunction under par. (a) into the transaction information for  
7 management of enforcement system. The sheriff or other local law enforcement  
8 agency shall also make available to other law enforcement agencies, through a  
9 verification system, the information received and entered under this paragraph. The  
10 information need not be maintained after the order or injunction is no longer in  
11 effect.

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

13 (e) 2. If an injunction expires and is not extended, or an injunction is vacated,  
14 a sheriff may charge the respondent for any costs incurred 30 days after the  
15 injunction expires for storage of the firearm surrendered to the sheriff due to that  
16 injunction. A sheriff may dispose of a firearm surrendered to the sheriff due to that  
17 injunction 12 months after the injunction expires or is vacated and, if the sheriff  
18 disposes of the firearm, the sheriff may charge the respondent for the costs of  
19 disposal.

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

21 **(8) PENALTIES.** A respondent who violates an order described under sub. (1g)  
22 (a) or (b) is subject to a fine of not more than \$10,000 or imprisonment for not more  
23 than 9 months or both in addition to any other penalty to which he or she is subject.

24 **SECTION 29.** 818.02 (9) of the statutes is created to read:

25 818.02 (9) In a proceeding under s. 813.1285.

1           **SECTION 30.** 938.25 (6) of the statutes is amended to read:

2           938.25 (6) TEMPORARY RESTRAINING ORDER AND INJUNCTION. If a proceeding is  
3 brought under s. 938.13, any party to or any governmental or social agency involved  
4 in the proceeding may petition the court to issue a temporary restraining order and  
5 injunction as provided in s. 813.122 or 813.125. The court shall follow the procedure  
6 under s. 813.122 or 813.125 except that the court may combine hearings authorized  
7 under s. 813.122 or 813.125 and this chapter, the petitioner for the temporary  
8 restraining order and injunction is not subject to the limitations under s. 813.122 (2)  
9 (a) or 813.125 (2) and no fee is required regarding the filing of the petition under s.  
10 813.122 or 813.125.

11           **SECTION 30g. Nonstatutory provisions.**

12           (1) If 2013 Wisconsin Act ... (Assembly Bill 727), as affected by 2013 Assembly  
13 Amendment 2 to Assembly Bill 727, is not enacted into law then the treatment of  
14 sections 165.63 (3) and (4) (d) and 813.123 (4) (c), (5m) (c) 1. and 2., (e), (f), (g), and  
15 (h), and (9) (c) of the statutes, the renumbering and amendment of section 813.123  
16 (5) (a) 2. of the statutes, and the creation of section 813.123 (5) (a) 2. a., b. and c. of  
17 the statutes and items 3. and 4. of assembly amendment ... (LRBa1813/1) to  
18 Assembly Substitute Amendment 1 to Assembly Bill 464 are void.

19           **SECTION 31. Initial applicability.**

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

22           **SECTION 32. Effective date.**

23           (1) This act takes effect on the first day of the 7th month beginning after  
24 publication.

25

(END)