

2015 DRAFTING REQUEST

Bill

Received: **2/10/2015** Received By: **phurley**
For: **Jerry Petrowski (608) 266-2502** Same as LRB: **-4039**
May Contact: By/Representing: **Lane**
Subject: **Criminal Law - domestic abuse** Drafter: **phurley**
Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Sen.Petrowski@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Notification of TROs and Injunctions

Instructions:

Require clerks of courts, not victims, to notify law enforcement of TROs and Injunctions

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 3/10/2015	rschluet 2/17/2015	_____	sbasford 2/17/2015		
/P2	phurley 3/18/2015	kfollett 3/23/2015	_____	sbasford 3/13/2015		
/1	phurley 9/25/2015	jfrantze 3/23/2015	_____	sbasford 3/23/2015		State S&L
/2	phurley	kfollett	_____	mbarman		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	11/10/2015	10/2/2015	_____	10/2/2015		S&L
/3		kfollett 11/12/2015	_____	lparisi 11/12/2015	mbarman 12/22/2015	State S&L

FE Sent For:

*at intro
12/29/15*

<END>

Hurley, Peggy

From: Ruhland, Lane
Sent: Tuesday, February 10, 2015 9:58 AM
To: Hurley, Peggy
Subject: Bill drafting requests

Good morning Peggy,

I hope all is well. I have a couple bill draft requests. The first regarding service of TRO's and the other, a good Samaritan bill.

The first bill fairly straightforward. We would like to require that clerks of court forward TRO information to law enforcement, instead of the onus being on the petitioner to deliver the TRO to the sheriff. The language would also incorporate petitions for firearm surrender under 813.1285.

I have some suggested language below, but of course if you have a better way to do it let me know.

813.12(6) Enforcement Assistance

- (a) If an order is issued or under s. 813.1285, upon request by the petitioner the court or circuit court commissioner shall order :
1. the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence; and
 2. the clerk of circuit court to forward the temporary restraining order to the sheriff to ~~otherwise~~ assist in executing or serving the temporary restraining order, the injunction, any required notices, or an order under s. 813.1285. The petitioner may, at the petitioner's expense, use a private process server to serve papers on the respondent.

This same language could be incorporated under 813.122(9)(a), 813.123(8)(a), and 813.125(5g)(c):

813.122(9)(a)

(a) If an order is issued under this section or under s. 813.1285, upon the request by the petitioner, the court or circuit court commissioner shall order the clerk of circuit court to forward the temporary restraining order, the injunction, any required notices, or an order under s. 813.1285 to the sheriff an order the sheriff to otherwise assist in executing or serving the temporary restraining order, the injunction, any required notices, or an order under s. 813.1285.

813.123(8)(a)

(a) If an order is issued under this section or under s. 813.1285, upon the request by the petitioner, the court or circuit court commissioner shall order the clerk of circuit court to forward the temporary restraining order, the injunction, any required notices, or an order under s. 813.1285 to the sheriff an order the sheriff to otherwise assist in executing or serving the temporary restraining order, the injunction, any required notices, or an order under s. 813.1285.

813.125(5g)(c)

- (c) If an order is issued or under s. 813.1285, upon request by the petitioner the court or circuit court commissioner shall order :
1. the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence; and

2. the clerk of circuit court to forward the temporary restraining order to the sheriff to ~~otherwise~~ assist in executing or serving the temporary restraining order, the injunction, any required notices, or an order under s. 813.1285. The petitioner may, at the petitioner's expense, use a private process server to serve papers on the respondent.

Good Samaritan

The other bill we would like drafted is perhaps more complicated. I have attached a couple Good Samaritan type bills from last session. We would like to do something similar to these ensuring some type of immunity from prosecution for minor drug and alcohol offenses for victims and witnesses of sexual assault or domestic violence. This may be one of those back and forth type bills were we actually have to sit down and meet to hash out language. Also, let me know if this draft should go to another drafting attorney. Please do not hesitate to contact me with any questions!

Sincerely,

Lane Ruhland

Office of Senator Jerry Petrowski
29th Senate District
608-266-2502



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1674/P1

PJH: [Signature]

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2-24
0-note

Gen

1 **AN ACT ...; relating to:** forwarding to a sheriff certain restraining orders and
2 injunctions.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

change
component

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

renumbered 813.12(6) (a) (intro.)
and

813.12 (6) ENFORCEMENT ASSISTANCE (a) If an order is issued under this section,

upon request by the petitioner the court or circuit court commissioner shall order do
the following:

2. Order the sheriff to accompany the petitioner and assist in placing him or her
in physical possession of his or her residence or to otherwise.

3. Order the sheriff to assist in executing or serving the temporary restraining
order or injunction, any notices required to be provided to the respondent, and any

1 order issued under s. 813.1285. The petitioner may, at the petitioner's expense, use
2 a private process server to serve papers on the respondent.

3 **SECTION 2.** 813.12 (6) (a) 1. of the statutes is created to read:

4 813.12 (6) (a) 1. Order the clerk of court to forward to the sheriff the order
5 issued under this section, any notices required to be provided to the respondent, and
6 any order issued under s. 813.1285.

change component

renumbered 813.122 (9) (a) (intro.) and

SECTION 3. 813.122 (9) (a) of the statutes is amended to read:

8 813.122 (9) (a) *(intro.)* If an order is issued under this section, upon request by the
9 petitioner, the court or circuit court commissioner, as applicable, shall order do the
10 following:

11 2. Order the sheriff to assist in executing or serving the temporary restraining
12 order or injunction, any notices required to be provided to the respondent, and any
13 order issued under s. 813.1285.

History: 1985 a. 234; 1987 a. 332 s. 64; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1991 a. 276; 1993 a. 227, 318; 1995 a. 71, 275, 306, 456; 1997 a. 292; 2001 a. 61; 2005 a. 155, 272; 2005 a. 443 s. 265; 2007 a. 20, 124; 2009 a. 262; 2011 a. 35; 2013 a. 223, 311, 321, 322; s. 13.92 (2) (i).

14 **SECTION 4.** 813.122 (9) (a) 1. of the statutes is created to read:

15 813.122 (9) (a) 1. Order the clerk of court to forward to the sheriff the order
16 issued under this section, any notices required to be provided to the respondent, and
17 any order issued under s. 813.1285.

change component

renumbered 813.123 (8) (a) (intro.) and

SECTION 5. 813.123 (8) (a) of the statutes is amended to read:

18 813.123 (8) (a) *(intro.)* If an order is issued under this section, upon request by the
19 petitioner, the court or circuit court commissioner shall order do the following:

20 2. Order the sheriff to assist in executing or serving the temporary restraining
21 order or injunction.
22

History: 1993 a. 445; 1995 a. 71, 306; 1997 a. 27; 2001 a. 61; 2005 a. 264, 387, 388; 2007 a. 45, 96, 124; 2009 a. 262; 2013 a. 223, 311, 321, 322; s. 13.92 (2) (i).

23 **SECTION 6.** 813.123 (8) (a) 1. of the statutes is created to read:

change component

renumbered 4 813.125 (5g) (c) (intro) and

1 813.123 (8) (a) 1. Order the clerk of court to forward to the sheriff the order
2 issued under this section, any notices required to be provided to the respondent, and
3 any order issued under s. 813.1285.

4 **SECTION 7.** 813.125 (5g) (c) of the statutes is amended to read:

5 813.125 (5g) (c) *(intro.)* If an order is issued under this section, upon request by the
6 petitioner the court or circuit court commissioner shall ~~order~~ do the following:

7 2. Order the sheriff to accompany the petitioner and assist in placing him or
8 her in physical possession of his or her residence ~~or to otherwise assist.~~

9 3. Assist in executing or serving the temporary restraining order or injunction,
10 any notices required to be provided to the respondent, and any order issued under
11 s. 813.1285. The petitioner may, at the petitioner's expense, use a private process
12 server to serve papers on the respondent.

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321; 2005 a. 272; 2007 a. 124; 2009 a. 262; 2011 a. 35, 266; 2013 a. 20, 223, 311, 321, 322; s. 13.92 (2) (i).

13 **SECTION 8.** 813.125 (5g) (c) 1. of the statutes is created to read:

14 813.125 (5g) (c) 1. Order the clerk of court to forward to the sheriff the order
15 issued under this section, any notices required to be provided to the respondent, and
16 any order issued under s. 813.1285.

17 (END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1674/P1dn

PJH...*gf*

Date

Lane,

Please review this preliminary draft and let me know if you would like any additions or changes. When the draft meets your approval, I will write an analysis and redraft it into introducible form.

Peggy J. Hurley
Senior Legislative Attorney
(608) 266-8906
peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1674/P1dn
PJH:kjfrs

February 17, 2015

Lane,

Please review this preliminary draft and let me know if you would like any additions or changes. When the draft meets your approval, I will write an analysis and redraft it into introducible form.

Peggy J. Hurley
Senior Legislative Attorney
(608) 266-8906
peggy.hurley@legis.wisconsin.gov

Hurley, Peggy

From: Ruhland, Lane
Sent: Thursday, March 05, 2015 9:21 AM
To: Hurley, Peggy
Subject: TRO draft
Attachments: 813 service 3.4.15.docx

Peggy,

Please see input from Tony Gibart on our TRO draft. Tony explained that the provision you highlighted in practice doesn't actually occur or apply properly. I think there were two big bills that came together so sometimes the language in the statute doesn't apply in every situation. Tony explains the changes below better than I can. He also did some draft language just to explain the bullets more, if that is helpful to you.

Please let me know if you have any questions,

Thanks!
Lane

From: Tony Gibart [mailto:tonyg@endabusewi.org]
Sent: Wednesday, March 04, 2015 6:30 PM
To: Ruhland, Lane
Subject: bill draft

Hi Lane,

Here is a revised draft. Like we discussed, this draft addresses the issues below.

- Sheriff's departments have a form they ask petitioners to fill out that gives information helpful for service (e.g., where respondent hang's out). The draft directs clerks to give this form to the petitioner and put privacy protections in place.
- The draft authorizes the electronic transmission of the from the clerk to sheriff. My understanding is that clerks of court are generally prohibited from using email for the transmission of court documents.
- When respondents or petitioners ask for a de novo review of a court commissioner decision, the current form directs the party requesting review to mail notice of motion to the other party. This can be problematic for obvious reasons. This draft directs the clerk to provide notice to the other party.

Let me know if you have questions.

Thanks,

Tony

The changes below are to 813.12. They can be used as a model for parallel changes to 813.122, 813.123 and 813.125.

ENFORCEMENT ASSISTANCE.

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

(ad) Whenever a respondent is to be served under this section, the court shall order the clerk to forward the temporary restraining order, injunction or any other required documents or notices to sheriff, and the court shall order the sheriff to assist the petitioner in executing or serving temporary restraining order, injunction or any required documents or notices to the respondent. The petitioner may elect to use a private process server for service at the petitioner's expense.

(ah) At the sheriff's request, the clerk shall provide a form to the petitioner that allows the petitioner to provide information about the respondent that might be useful to the sheriff in effecting service. Any such form shall not be part of the court file and shall be confidential. The clerk shall forward the completed form to the sheriff.

(am)

1. If an injunction is issued or extended under sub. (4) or if a tribal injunction is filed under s. 806.247 (3), the clerk of the circuit court shall notify the department of justice of the injunction and shall provide the department of justice with information concerning the period during which the injunction is in effect and information necessary to identify the respondent for purposes of responding to a request under s. 165.63 or for purposes of a firearms restrictions record search under s. 175.35 (2g) (c) or a background check under s. 175.60 (9g) (a).

2. Except as provided in subd. 3., the department of justice may disclose information that it receives under subd. 1. only to respond to a request under s. 165.63 or as part of a firearms restrictions record search under s. 175.35 (2g) (c) or a background check under s. 175.60 (9g) (a).

3. The department of justice shall disclose any information that it receives under subd. 1. to a law enforcement agency when the information is needed for law enforcement purposes.

in leave
(b) Within one business day after an order or injunction is issued, extended, modified or vacated under this section, the clerk of the circuit court shall send a copy of the order or injunction, or of the order extending, modifying or vacating an order or injunction, to the sheriff or to any other local law enforcement agency which is the central repository for orders and injunctions and which has jurisdiction over the petitioner's premises.

(c) No later than 24 hours after receiving the information under par. (b), the sheriff or other appropriate local law enforcement agency under par. (b) shall enter the information concerning an order or injunction issued, extended, modified or vacated under this section into the transaction information for management of enforcement system. The sheriff or other appropriate local law enforcement agency shall also make available to other law enforcement agencies, through a verification system, information on the existence and status of any order or injunction issued under this section. The information need not be maintained after the order or injunction is no longer in effect.

(d) The issuance of an order under s. 813.12 (3) or (4) is enforceable despite the existence of any other criminal or civil order restricting or prohibiting contact.

(e) Law enforcement agencies and the clerk may use electronic transmission to facilitate the exchange of documents under this subsection. These agencies shall ensure that such electronic transmission does not allow unauthorized disclosure of the documents.

813.126 New hearing.(a) If a party seeks to have the judge conduct a hearing de novo under s. 757.69 (8) of a determination, order, or ruling entered by a court commissioner in an action under s. 813.12, 813.122, 813.123, or 813.125, including a denial of a request for a temporary restraining order, the motion requesting the hearing must be filed with the court within 30 days after the circuit court commissioner issued the determination, order, or ruling. The court shall hold the de novo hearing within 30 days after the motion requesting the hearing is filed with the court unless the court finds good cause for an extension. Any determination, order, or ruling entered by a court commissioner in an action under s. 813.12, 813.122, 813.123, or 813.125 remains in effect until the judge in the de novo hearing issues his or her final determination, order, or ruling.

(b) Except for motion to review a denial of a temporary restraining order, the clerk of court shall provide notice of a motion under (a) to the non-moving party.



Tony Gibart
Public Policy Director
End Domestic Abuse Wisconsin

1245 E. Washington Ave, Suite 150
Madison, WI 53703

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



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1674/P1
PJH:kjf:rs

P2
mr

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

note
3-13

regen

1 **AN ACT to renumber and amend** 813.12 (6) (a), 813.122 (9) (a), 813.123 (8) (a)
2 and 813.125 (5g) (c); and **to create** 813.12 (6) (a) 1., 813.122 (9) (a) 1., 813.123
3 (8) (a) 1. and 813.125 (5g) (c) 1. of the statutes; **relating to:** forwarding to a
4 sheriff certain restraining orders and injunctions.

relating to
documents relating to

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

5 **SECTION 1.** 813.12 (6) (a) of the statutes is renumbered 813.12 (6) (a) (intro.)
6 and amended to read:
7 813.12 (6) (a) (intro.) If an order is issued under this section, upon request by
8 the petitioner the court or circuit court commissioner shall order do the following:
9 2. Order the sheriff to accompany the petitioner and assist in placing him or
10 her in physical possession of his or her residence or to otherwise.

1 3. Order the sheriff to assist in executing or serving the temporary restraining
2 order or injunction, any notices required to be provided to the respondent, and any
3 order issued under s. 813.1285. The petitioner may, at the petitioner's expense, use
4 a private process server to serve papers on the respondent.

5 **SECTION 2.** 813.12 (6) (a) 1. of the statutes is created to read:

6 813.12 (6) (a) 1. Order the clerk of court to forward to the sheriff the order
7 issued under this section, any notices required to be provided to the respondent, and
8 any order issued under s. 813.1285.

9 **SECTION 3.** 813.122 (9) (a) of the statutes is renumbered 813.122 (9) (a) (intro.)
10 and amended to read:

11 813.122 (9) (a) (intro.) If an order is issued under this section, upon request by
12 the petitioner, the court or circuit court commissioner, as applicable, shall order do
13 the following:

14 2. Order the sheriff to assist in executing or serving the temporary restraining
15 order or injunction, any notices required to be provided to the respondent, and any
16 order issued under s. 813.1285.

17 **SECTION 4.** 813.122 (9) (a) 1. of the statutes is created to read:

18 813.122 (9) (a) 1. Order the clerk of court to forward to the sheriff the order
19 issued under this section, any notices required to be provided to the respondent, and
20 any order issued under s. 813.1285.

21 **SECTION 5.** 813.123 (8) (a) of the statutes is renumbered 813.123 (8) (a) (intro.)
22 and amended to read:

23 813.123 (8) (a) (intro.) If an order is issued under this section, upon request by
24 the petitioner, the court or circuit court commissioner shall order do the following:

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2. Order the sheriff to assist in executing or serving the temporary restraining order or injunction.

SECTION 6. 813.123 (8) (a) 1. of the statutes is created to read:

813.123 (8) (a) 1. Order the clerk of court to forward to the sheriff the order issued under this section, any notices required to be provided to the respondent, and any order issued under s. 813.1285.

SECTION 7. 813.125 (5g) (c) of the statutes is renumbered 813.125 (5g) (c) (intro.) and amended to read:

813.125 (5g) (c) (intro.) If an order is issued under this section, upon request by the petitioner the court or circuit court commissioner shall order do the following:

2. Order the sheriff to accompany the petitioner and assist in placing him or her in physical possession of his or her residence ~~or to otherwise assist.~~

3. Assist in executing or serving the temporary restraining order or injunction, any notices required to be provided to the respondent, and any order issued under s. 813.1285. The petitioner may, at the petitioner's expense, use a private process server to serve papers on the respondent.

SECTION 8. 813.125 (5g) (c) 1. of the statutes is created to read:

813.125 (5g) (c) 1. Order the clerk of court to forward to the sheriff the order issued under this section, any notices required to be provided to the respondent, and any order issued under s. 813.1285.

(END)

Insert P.L. ins

D-Note

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1674/P1ins
PJH:kjfrs

✓

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

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

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; 2009 a. 262; 2011 a. 35, 266; 2013 a. 223, 311, 321, 322; s. 13.92 (2) (i).

SECTION 2. 813.12 (6) (ag) of the statutes is created to read:

Xt 813.12 (6) (ag) 1. The court shall order the clerk of the circuit court to forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and shall order the sheriff to assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. Upon request by the sheriff, the clerk of circuit court shall provide a form to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. A form provided under this subdivision may not be part of the court file and shall be kept confidential.

✓

SECTION 3. 813.12 (6) (e) of the statutes is created to read:

813.12 (6) (e) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section.

Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 4. 813.122 (9) (a) of the statutes is repealed and recreated to read:

X

813.122 (9) (a) 1. The court shall order the clerk of the circuit court to forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and shall order the sheriff to assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. Upon request by the sheriff, the clerk of circuit court shall provide a form to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. A form provided under this subdivision may not be part of the court file and shall be kept confidential.

SECTION 5. 813.122 (9) (d) of the statutes is created to read:

X

813.122 (9) (d) 2. A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section.

Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 6. 813.123 (8) (a) of the statutes is repealed and recreated to read:

tt

813.123 (8) (a) 1. The court shall order the clerk of the circuit court to forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and shall order the sheriff to assist the petitioner in executing or serving the temporary restraining

order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. Upon request by the sheriff, the clerk of circuit court shall provide a form to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. A form provided under this subdivision may not be part of the court file and shall be kept confidential.

SECTION 7. 813.123 (8) (d) of the statutes is created to read:

813.123 (8) (d) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 8. 813.125 (5g) (c) of the statutes is amended to read:

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

History: 1983 a. 336; 1991 a. 39, 194; 1995 a. 71, 306; 2001 a. 16, 61, 105; 2003 a. 321; 2005 a. 272; 2007 a. 124; 2009 a. 262; 2011 a. 35, 266; 2013 a. 20, 223, 311, 321, 322; s. 13.92 (2) (i).

SECTION 9. 813.125 (5g) (cm) of the statutes is created to read:

813.12(5g) (cm) 1. The court shall order the clerk of the circuit court to forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and shall order the sheriff to assist the petitioner in executing or serving the temporary restraining

KT

5 - 123 (5g) (cm) 1. B

order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. Upon request by the sheriff, the clerk of circuit court shall provide a form to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. A form provided under this subdivision may not be part of the court file and shall be kept confidential.

SECTION 10. 813.125 (5g) (e) of the statutes is created to read:

813.125 (5g) (e) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 11. 813.126 of the statutes is renumbered 813.126 (1) and amended

to read:

SECTION #. 813.126 (1) (title); CR
91 (title)

813.126 **New hearing.** (1) ~~TIME LIMITS. If a party seeks to have the judge~~

~~conduct a hearing de novo under s. 757.69 (8) of a determination, order, or ruling entered by a court commissioner in an action under s. 813.12, 813.122, 813.123, or 813.125, including a denial of a request for a temporary restraining order, the motion requesting the hearing must be filed with the court within 30 days after the circuit court commissioner issued the determination, order, or ruling. The court shall hold the de novo hearing within 30 days after the motion requesting the hearing is filed with the court unless the court finds good cause for an extension. Any determination, order, or ruling entered by a court commissioner in an action under s. 813.12,~~

change component
X

813.122, 813.123, or 813.125 remains in effect until the judge in the de novo hearing issues his or her final determination, order, or ruling.

History: 2009 a. 262; 2013 a. 322.

SECTION 12. 813.126 (2) of the statutes is created to read:

X 813.126 (2) NOTICE. The clerk of circuit court shall provide notice of a motion under sub. (1) to the non²moving party. This subsection does not apply to a motion to review a denial of a temporary restraining order.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

CRB-1674/P2dn
~~??dn~~

PJH:kjf:rs

Date

Lane,

Please review this preliminary draft and let me know if you would like any changes, or would like to discuss the draft. When the draft meets your approval, I will write an analysis and redraft it in introducible form. Thanks!

Peggy J. Hurley
Senior Legislative Attorney
(608) 266-8906
peggy.hurley@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1674/P2dn
PJH:kjf:jf

March 13, 2015

Lane,

Please review this preliminary draft and let me know if you would like any changes, or would like to discuss the draft. When the draft meets your approval, I will write an analysis and redraft it in introducible form. Thanks!

Peggy J. Hurley
Senior Legislative Attorney
(608) 266-8906
peggy.hurley@legis.wisconsin.gov

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

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

SECTION 2. 813.12 (6) (ag) of the statutes is created to read:

813.12 (6) (ag) 1. ~~The court shall order the clerk of the circuit court to shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and shall order the sheriff to shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.~~

2. Upon request by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. ~~A form provided under this subdivision may not be part of the court file and shall be kept confidential. The clerk shall maintain the form provided under this subdivision in a confidential manner.~~

SECTION 3. 813.12 (6) (e) of the statutes is created to read:

813.12 (6) (e) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 4. 813.122 (9) (a) of the statutes is repealed and recreated to read:

813.122 (9) (a) 1. ~~The court shall order the clerk of the circuit court to shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and shall order the sheriff to shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.~~

2. Upon request by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. ~~A form provided under this subdivision may not be part of the court file and shall be kept confidential. The clerk shall maintain the form provided under this subdivision in a confidential manner.~~

SECTION 5. 813.122 (9) (d) of the statutes is created to read:

813.122 (9) (d) A law enforcement agency and a clerk of circuit court may use

electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 6. 813.123 (8) (a) of the statutes is repealed and recreated to read:
813.123 **(8)** (a) 1. ~~The court shall order the clerk of the circuit court to~~ shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and ~~shall order the sheriff to~~ shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

2. Upon request by the sheriff, the clerk of circuit court shall provide a form supplied by the sheriff to the petitioner that allows the petitioner to provide information about the respondent that may be useful to the sheriff in effecting service. The clerk shall forward the completed form to the sheriff. ~~A form provided under this subdivision may not be part of the court file and shall be kept confidential. The clerk shall maintain the form provided under this subdivision in a confidential manner.~~

SECTION 7

813.123 **(8)** (d) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

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

SECTION 9. 813.125 (5g) (cm) of the statutes is created to read:
813.125 **(5g)** (cm) 1. ~~The court shall order the clerk of the circuit court to~~ shall forward to the sheriff any temporary restraining order, injunction, or other document or notice that must be served on the respondent under this section and ~~shall order the sheriff to~~ shall assist the petitioner in executing or serving the temporary restraining order, injunction, or other document or notice on the respondent. The petitioner may, at his or her expense, elect to use a private server to effect service.

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part of the court file and shall be kept confidential. The clerk shall maintain the form provided under this subdivision in a confidential manner.

SECTION 10. 813.125 (5g) (e) of the statutes is created to read:

813.125 **(5g)** (e) A law enforcement agency and a clerk of circuit court may use electronic transmission to facilitate the exchange of documents under this section. Any person who uses electronic transmission shall ensure that the electronic transmission does not allow unauthorized disclosure of the documents transmitted.

SECTION 11. 813.126 of the statutes is renumbered 813.126 (1).

SECTION 12. 813.126 (1) (title) of the statutes is created to read:

813.126 **(1)** (title) TIME LIMITS.

SECTION 13. 813.126 (2) of the statutes is created to read:

813.126 **(2)** NOTICE. The clerk of circuit court shall provide notice of a motion under sub. (1) to the nonmoving party. This subsection does not apply to a motion to review a denial of a temporary restraining order.

SECTION 14 This act takes effect on the first day of the 1st month beginning after publication.

(END)



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1674/P2
PJH:kjf:jf

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Fixed
request
sheet

54
3-23

Regen

1 **AN ACT to renumber** 813.126; **to amend** 813.12 (6) (a) and 813.125 (5g) (c); **to**
2 **repeal and recreate** 813.122 (9) (a) and 813.123 (8) (a); and **to create** 813.12
3 (6) (ag), 813.12 (6) (e), 813.122 (9) (d), 813.123 (8) (d), 813.125 (5g) (cm), 813.125
4 (5g) (e), 813.126 (1) (title) and 813.126 (2) of the statutes; **relating to:** serving
5 certain documents relating to restraining orders and injunctions.

Inset
analysis

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

6 **SECTION 1.** 813.12 (6) (a) of the statutes is amended to read:
7 813.12 (6) (a) If an order is issued under this section, upon request by the
8 petitioner the court or circuit court commissioner shall order the sheriff to
9 accompany the petitioner and assist in placing him or her in physical possession of

1 his or her residence or to otherwise assist in executing or serving the temporary
2 restraining order or injunction. The petitioner may, at the petitioner's expense, use
3 a private process server to serve papers on the respondent.

4 SECTION 2. 813.12 (6) (ag) of the statutes is created to read:

5 813.12 (6) (ag) 1. The court shall order the clerk of the circuit court to forward
6 to the sheriff any temporary restraining order, injunction, or other document or
7 notice that must be served on the respondent under this section and shall order the
8 sheriff to assist the petitioner in executing or serving the temporary restraining
9 order, injunction, or other document or notice on the respondent. The petitioner may,
10 at his or her expense, elect to use a private server to effect service.

11 2. Upon request by the sheriff, the clerk of circuit court shall provide a form to
12 the petitioner that allows the petitioner to provide information about the respondent
13 that may be useful to the sheriff in effecting service. The clerk shall forward the
14 completed form to the sheriff. ~~A form provided under this subdivision may not be~~
15 ~~part of the court file and shall be kept confidential.~~

16 SECTION 3. 813.12 (6) (e) of the statutes is created to read:

17 813.12 (6) (e) A law enforcement agency and a clerk of circuit court may use
18 electronic transmission to facilitate the exchange of documents under this section.
19 Any person who uses electronic transmission shall ensure that the electronic
20 transmission does not allow unauthorized disclosure of the documents transmitted.

21 SECTION 4. 813.122 (9) (a) of the statutes is repealed and recreated to read:

22 813.122 (9) (a) 1. The court shall order the clerk of the circuit court to forward
23 to the sheriff any temporary restraining order, injunction, or other document or
24 notice that must be served on the respondent under this section and shall order the
25 sheriff to assist the petitioner in executing or serving the temporary restraining

1 order, injunction, or other document or notice on the respondent. The petitioner may,
2 at his or her expense, elect to use a private server to effect service.

Supplied by the sheriff

3 2. Upon request by the sheriff, the clerk of circuit court shall provide a form to
4 the petitioner that allows the petitioner to provide information about the respondent

5 that may be useful to the sheriff in effecting service. The clerk shall forward the
6 completed form to the sheriff. ~~A form provided under this subdivision may not be~~

The clerk shall maintain the

7 ~~part of the court file and shall be kept confidential.~~

in a

manner

8 SECTION 5. 813.122 (9) (d) of the statutes is created to read:

9 813.122 (9) (d) A law enforcement agency and a clerk of circuit court may use
10 electronic transmission to facilitate the exchange of documents under this section.
11 Any person who uses electronic transmission shall ensure that the electronic
12 transmission does not allow unauthorized disclosure of the documents transmitted.

13 SECTION 6. 813.123 (8) (a) of the statutes is repealed and recreated to read:

14 813.123 (8) (a) 1. The ~~court shall order the~~ clerk of the circuit court ~~to forward~~
15 to the sheriff any temporary restraining order, injunction, or other document or
16 notice that must be served on the respondent under this section and ~~shall order the~~
17 sheriff ~~to assist~~ *shall* the petitioner in executing or serving the temporary restraining
18 order, injunction, or other document or notice on the respondent. The petitioner may,

shall

19 at his or her expense, elect to use a private server to effect service.

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The clerk shall maintain the

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in a

manner

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 4 transmission does not allow unauthorized disclosure of the documents transmitted.

5 **SECTION 8.** 813.125 (5g) (c) of the statutes is amended to read:

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 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.~~

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 14 forward to the sheriff any temporary restraining order, injunction, or other document
 15 or notice that must be served on the respondent under this section and shall order
 16 the sheriff ^{to} ~~assist~~ ^{shall} the petitioner in executing or serving the temporary restraining
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 22 completed form to the sheriff. ^{The clerk shall maintain the} ~~A form provided under this subdivision may not be~~
 23 ~~part of the court file and shall be kept confidential.~~ ^{in a manner}

24 **SECTION 10.** 813.125 (5g) (e) of the statutes is created to read:

1

INSERT ANALYSIS:

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats (petitioner) may obtain from a court a temporary restraining order against the person who has committed the acts of abuse, harassment, or making a threat (respondent). The restraining order bars the respondent from contacting the petitioner and requires the respondent to stay away from the petitioner's residence and other places temporarily occupied by the petitioner until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer lasting injunction.

If the court determines that the respondent has engaged in, or may engage in, acts of abuse, harassment, or threats against the petitioner, the court may issue an injunction. An injunction may stay in effect for up to four years and bars the respondent from contacting the petitioner, requires the person to stay away from the petitioner's residence, and may require the respondent to stay away from other locations temporarily occupied by the petitioner.

Currently, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the court can order, upon the petitioner's request, a sheriff to assist the petitioner in serving the respondent or in attaining physical possession of the petitioner's residence.

X Under this bill, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the clerk of court is required to forward a copy of the order or injunction to the sheriff and the sheriff is required to assist the petitioner in serving the respondent, unless the petitioner opts to hire a private server at his or her own expense. Under the bill, a sheriff may supply a form that is given to the petitioner by the clerk of court in order to gather information about the respondent that may be useful in effecting service. The bill requires the clerk of court to maintain the form in a confidential manner, and allows the clerk of court to transmit documents to the sheriff electronically, so long as the contents of the documents are protected from unauthorized disclosure.

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

Hurley, Peggy

From: Hurley, Peggy
Sent: Monday, September 21, 2015 9:00 AM
To: Brabender, Lindsey
Subject: RE: LRB 1674/1

Hi Lindsey,

I can make those changes. I will need to spell out VINE, however – it's the Victim Information and Notification Everyday program, correct? On its Internet site, DOC calls it the "Wisconsin Statewide Victim Notification service," so I will use that name in order to avoid using an acronym in the statutes.

Peggy

From: Brabender, Lindsey
Sent: Monday, September 21, 2015 8:29 AM
To: Hurley, Peggy <Peggy.Hurley@legis.wisconsin.gov>
Subject: LRB 1674/1

Hi Peggy,

I have some changes that need to be made to our TRO bill, LRB 1674/1 and have attached them to this email. Please just let me know if you have any questions!

Thanks,
Lindsey

Lindsey Brabender
Policy Advisor
Office of State Senator Jerry Petrowski
29th Senate District
Lindsey.Brabender@legis.wi.gov
608-266-2502

Recommend Changes - TRO Bill

LRB1674/1

Page 3 Line 1:

Page 3 Line 18:

Page 4 Line 10:

Page 5 Line 10:

DELETE "Upon request by the sheriff," and INSERT "If the petitioner elects service by the sheriff,"

Page 4 Line 9:

After "service." INSERT "Each sheriff shall utilize the "VINE" system or other such service notification system that may be administered by the Department of Corrections which enables the petitioner to receive an automated notification of the service of the temporary restraining order, injunction, or other document or notice that must be served on the respondent. Each sheriff shall enter the service of such order into this system as soon as practicable, so timely notification of service is made to the petitioner. Each clerk of court shall make available at the time of the petition, information to the petitioner on how to access the designated system for the automated notification of service."

tlc to Lindsey: why only #4, 19?

813.12 = dom abuse

.122 = child abuse

.123 = minors at risk

.125 = harassment

Hurley, Peggy

From: Brabender, Lindsey
Sent: Thursday, September 24, 2015 3:12 PM
To: Hurley, Peggy
Subject: FW: TRO Bill

Hey Peggy,

I checked in with Mike and it sounds like you can go ahead and include that language where you think it should be inserted.

Thanks!

Lindsey Brabender
Policy Advisor
Office of State Senator Jerry Petrowski
29th Senate District
Lindsey.Brabender@legis.wi.gov
608-266-2502

From: Austin, Michael P [<mailto:austinmp@doj.state.wi.us>]
Sent: Thursday, September 24, 2015 7:46 AM
To: Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>
Subject: RE: TRO Bill

It is fine to include in the other parts if the drafter thinks that is helpful.

From: Brabender, Lindsey [<mailto:Lindsey.Brabender@legis.wisconsin.gov>]
Sent: Monday, September 21, 2015 3:10 PM
To: Austin, Michael P
Subject: RE: TRO Bill

Hey Mike,

I sent the changes over to the drafter and she just called wondering if you wanted the VINE system language inserted only in that one specific sections or in other sections of the bill as well? For example, the exact same language is used on page 5, lines 8-9, should that same language be inserted after that sentence? She seemed to think that there were other parts of the bill where you would want to add that. Just take a look and let me know what you think.

Lindsey Brabender
Policy Advisor
Office of State Senator Jerry Petrowski
29th Senate District
Lindsey.Brabender@legis.wi.gov
608-266-2502

From: Austin, Michael P [<mailto:austinmp@doj.state.wi.us>]
Sent: Friday, September 18, 2015 7:37 AM
To: Brabender, Lindsey <Lindsey.Brabender@legis.wisconsin.gov>; Fiocchi, Tim <Tim.Fiocchi@legis.wisconsin.gov>
Subject: TRO Bill

Lindsey/Tim-

Sorry this took a little while but attached are some recommended changes to the TRO bill. Keep me posted if we need to go over any of this. Thanks!

Mike Austin
Government Affairs Director
Office of Attorney General Brad Schimel
114 East - State Capitol
Direct Phone: (608) 264-6367
austinmp@doj.state.wi.us



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1674/1
PJH:kjf

2
mr

2015 BILL

10-2

legen

1 AN ACT *to renumber* 813.126; *to amend* 813.12 (6) (a) and 813.125 (5g) (c); *to*
2 *repeal and recreate* 813.122 (9) (a) and 813.123 (8) (a); and *to create* 813.12
3 (6) (ag), 813.12 (6) (e), 813.122 (9) (d), 813.123 (8) (d), 813.125 (5g) (cm), 813.125
4 (5g) (e), 813.126 (1) (title) and 813.126 (2) of the statutes; **relating to:** serving
5 certain documents relating to restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats (petitioner) may obtain from a court a temporary restraining order against the person who has committed the acts of abuse, harassment, or making a threat (respondent). The restraining order bars the respondent from contacting the petitioner and requires the respondent to stay away from the petitioner's residence and other places temporarily occupied by the petitioner until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer lasting injunction.

If the court determines that the respondent has engaged in, or may engage in, acts of abuse, harassment, or threats against the petitioner, the court may issue an injunction. An injunction may stay in effect for up to four years and bars the respondent from contacting the petitioner, requires the person to stay away from the petitioner's residence, and may require the respondent to stay away from other locations temporarily occupied by the petitioner.

Currently, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the court can order, upon the

BILL

petitioner's request, a sheriff to assist the petitioner in serving the respondent or in attaining physical possession of the petitioner's residence.

Under this bill, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the clerk of court is required to forward a copy of the order or injunction to the sheriff and the sheriff is required to assist the petitioner in serving the respondent, unless the petitioner opts to hire a private server at his or her own expense. Under the bill, a sheriff may supply a form that is given to the petitioner by the clerk of court in order to gather information about the respondent that may be useful in effecting service. The bill requires the clerk of court to maintain the form in a confidential manner, and allows the clerk of court to transmit documents to the sheriff electronically, so long as the contents of the documents are protected from unauthorized disclosure.

insert analysis

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:

Insert

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

2 813.12 (6) (a) If an order is issued under this section, upon request by the
3 petitioner the court or circuit court commissioner shall order the sheriff to
4 accompany the petitioner and assist in placing him or her in physical possession of
5 his or her residence ~~or to otherwise assist in executing or serving the temporary~~
6 ~~restraining order or injunction. The petitioner may, at the petitioner's expense, use~~
7 ~~a private process server to serve papers on the respondent.~~

8 **SECTION 2.** 813.12 (6) (ag) of the statutes is created to read:

9 813.12 (6) (ag) 1. The clerk of the circuit court shall forward to the sheriff any
10 temporary restraining order, injunction, or other document or notice that must be
11 served on the respondent under this section and the sheriff shall assist the petitioner
12 in executing or serving the temporary restraining order, injunction, or other
13 document or notice on the respondent. The petitioner may, at his or her expense,
14 elect to use a private server to effect service.

BILL

If the petitioner elects service

1 2. Upon request by the sheriff, the clerk of circuit court shall provide a form
2 supplied by the sheriff to the petitioner that allows the petitioner to provide
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4 service. The clerk shall forward the completed form to the sheriff. The clerk shall
5 maintain the form provided under this subdivision in a confidential manner.

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9 Any person who uses electronic transmission shall ensure that the electronic
10 transmission does not allow unauthorized disclosure of the documents transmitted.

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15 in executing or serving the temporary restraining order, injunction, or other
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If the petitioner elects service

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25 electronic transmission to facilitate the exchange of documents under this section.

BILL**SECTION 5**

1 Any person who uses electronic transmission shall ensure that the electronic
2 transmission does not allow unauthorized disclosure of the documents transmitted.

3 **SECTION 6.** 813.123 (8) (a) of the statutes is repealed and recreated to read:

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6 served on the respondent under this section and the sheriff shall assist the petitioner
7 in executing or serving the temporary restraining order, injunction, or other
8 document or notice on the respondent. The petitioner may, at his or her expense,
9 elect to use a private server to effect service.

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11 supplied by the sheriff to the petitioner that allows the petitioner to provide
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14 maintained the form provided under this subdivision in a confidential manner.

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16 813.123 (8) (d) A law enforcement agency and a clerk of circuit court may use
17 electronic transmission to facilitate the exchange of documents under this section.

18 Any person who uses electronic transmission shall ensure that the electronic
19 transmission does not allow unauthorized disclosure of the documents transmitted.

20 **SECTION 8.** 813.125 (5g) (c) of the statutes is amended to read:

21 813.125 (5g) (c) If an order is issued under this section, upon request by the
22 petitioner the court or circuit court commissioner shall order the sheriff to
23 accompany the petitioner and assist in placing him or her in physical possession of
24 his or her residence ~~or to otherwise assist in executing or serving the temporary~~

BILL

1 ~~restraining order or injunction. The petitioner may, at the petitioner's expense, use~~
2 ~~a private process server to serve papers on the respondent.~~

3 **SECTION 9.** 813.125 (5g) (cm) of the statutes is created to read:

4 813.125 (5g) (cm) 1. The clerk of the circuit court shall forward to the sheriff
5 any temporary restraining order, injunction, or other document or notice that must
6 be served on the respondent under this section and the sheriff shall assist the
7 petitioner in executing or serving the temporary restraining order, injunction, or
8 other document or notice on the respondent. The petitioner may, at his or her
9 expense, elect to use a private server to effect service.

10 2. *If the petitioner elects service*
11 Upon request by the sheriff, the clerk of circuit court shall provide a form
12 supplied by the sheriff to the petitioner that allows the petitioner to provide
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19 Any person who uses electronic transmission shall ensure that the electronic
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22 **SECTION 12.** 813.126 (1) (title) of the statutes is created to read:

23 813.126 (1) (title) TIME LIMITS.

SECTION 13. 813.126 (2) of the statutes is created to read:

2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1674/lins
PJH:kjf

1 INSERT ANALYSIS:

 The bill requires a sheriff who serves or executes a document to use an automated victim notification system so that the petitioner receives timely notification of the service.

2

3 INSERT:

4 **SECTION 1.** 813.115 of the statutes is created to read:

5 **813.115 Service notification system.** A sheriff who executes or serves, or

6 who assists a petitioner in executing or serving, a temporary restraining order,

7 injunction, or other document or notice under s. 812.12, 813.122, 813.123, or 813.125

8 shall use the Wisconsin Statewide Victim Notification service or another service

9 notification system administered by the department of corrections that enables the

10 petitioner to receive an automated notification of the service of the temporary

11 restraining order, injunction, or other document or notice that must be served on the

12 respondent. The sheriff shall enter each order for service into the system as soon as

13 practicable so that the petitioner receives timely notification of the service. The clerk

14 of court shall, at the time a petition is filed under s. 812.12, 813.122, 813.123, or

15 813.125, make available to the petitioner information on how to gain to access to the

16 service notification system.



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1674/2
PJH:kjf

2015 BILL

11-12

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1 AN ACT *to renumber* 813.126; *to amend* 813.12 (6) (a) and 813.125 (5g) (c); *to*
2 *repeal and recreate* 813.122 (9) (a) and 813.123 (8) (a); and *to create* 813.115,
3 813.12 (6) (ag), 813.12 (6) (e), 813.122 (9) (d), 813.123 (8) (d), 813.125 (5g) (cm),
4 813.125 (5g) (e), 813.126 (1) (title) and 813.126 (2) of the statutes; **relating to:**
5 serving certain documents relating to restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

Under current law, an individual who is, or who acts on behalf of, a victim of abuse, harassment, or threats (petitioner) may obtain from a court a temporary restraining order against the person who has committed the acts of abuse, harassment, or making a threat (respondent). The restraining order bars the respondent from contacting the petitioner and requires the respondent to stay away from the petitioner's residence and other places temporarily occupied by the petitioner until a court conducts a hearing to determine whether the restraining order should be incorporated into a longer lasting injunction.

If the court determines that the respondent has engaged in, or may engage in, acts of abuse, harassment, or threats against the petitioner, the court may issue an injunction. An injunction may stay in effect for up to four years and bars the respondent from contacting the petitioner, requires the person to stay away from the petitioner's residence, and may require the respondent to stay away from other locations temporarily occupied by the petitioner.

Currently, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the court can order, upon the

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petitioner's request, a sheriff to assist the petitioner in serving the respondent or in attaining physical possession of the petitioner's residence.

Under this bill, if a court issues a restraining order or injunction or enters another order relating to a restraining order or injunction, the clerk of court is required to forward a copy of the order or injunction to the sheriff and the sheriff is required to assist the petitioner in serving the respondent, unless the petitioner opts to hire a private server at his or her own expense. Under the bill, a sheriff may supply a form that is given to the petitioner by the clerk of court in order to gather information about the respondent that may be useful in effecting service. The bill requires the clerk of court to maintain the form in a confidential manner, and allows the clerk of court to transmit documents to the sheriff electronically, so long as the contents of the documents are protected from unauthorized disclosure. The bill requires a sheriff who serves or executes a document to use an automated victim notification system so that the petitioner receives timely notification of the service.

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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:

1 SECTION 1. 813.115 of the statutes is created to read:

2 **813.115 Service notification system.** A sheriff who executes or serves, or
3 who assists a petitioner in executing or serving, a temporary restraining order,

4 injunction, or other document or notice under s. 812.12, 813.122, 813.123, or 813.125

5 shall use the Wisconsin Statewide Victim Notification service or another service

6 notification system administered by the department of corrections that enables the

7 petitioner to receive an automated notification of the service of the temporary

8 restraining order, injunction, or other document or notice that must be served on the

9 respondent. The sheriff shall enter each order for service into the system as soon as

10 practicable so that the petitioner receives timely notification of the service. The clerk

11 of court shall, at the time a petition is filed under s. 812.12, 813.122, 813.123, or

12 813.125, make available to the petitioner information on how to gain access to the

13 service notification system.

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

2 813.12 (6) (a) If an order is issued under this section, upon request by the
3 petitioner the court or circuit court commissioner shall order the sheriff to
4 accompany the petitioner and assist in placing him or her in physical possession of
5 his or her residence ~~or to otherwise assist in executing or serving the temporary~~
6 ~~restraining order or injunction. The petitioner may, at the petitioner's expense, use~~
7 ~~a private process server to serve papers on the respondent.~~

8 **SECTION 3.** 813.12 (6) (ag) of the statutes is created to read:

9 813.12 (6) (ag) 1. The clerk of the circuit court shall forward to the sheriff any
10 temporary restraining order, injunction, or other document or notice that must be
11 served on the respondent under this section and the sheriff shall assist the petitioner
12 in executing or serving the temporary restraining order, injunction, or other
13 document or notice on the respondent. The petitioner may, at his or her expense,
14 elect to use a private server to effect service.

15 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
16 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
17 provide information about the respondent that may be useful to the sheriff in
18 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
19 shall maintain the form provided under this subdivision in a confidential manner.

20 **SECTION 4.** 813.12 (6) (e) of the statutes is created to read:

21 813.12 (6) (e) A law enforcement agency and a clerk of circuit court may use
22 electronic transmission to facilitate the exchange of documents under this section.
23 Any person who uses electronic transmission shall ensure that the electronic
24 transmission does not allow unauthorized disclosure of the documents transmitted.

25 **SECTION 5.** 813.122 (9) (a) of the statutes is repealed and recreated to read:

BILL**SECTION 5**

1 813.122 (9) (a) 1. The clerk of the circuit court shall forward to the sheriff any
2 temporary restraining order, injunction, or other document or notice that must be
3 served on the respondent under this section and the sheriff shall assist the petitioner
4 in executing or serving the temporary restraining order, injunction, or other
5 document or notice on the respondent. The petitioner may, at his or her expense,
6 elect to use a private server to effect service.

7 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
8 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
9 provide information about the respondent that may be useful to the sheriff in
10 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
11 shall maintain the form provided under this subdivision in a confidential manner.

12 **SECTION 6.** 813.122 (9) (d) of the statutes is created to read:

13 813.122 (9) (d) A law enforcement agency and a clerk of circuit court may use
14 electronic transmission to facilitate the exchange of documents under this section.
15 Any person who uses electronic transmission shall ensure that the electronic
16 transmission does not allow unauthorized disclosure of the documents transmitted.

17 **SECTION 7.** 813.123 (8) (a) of the statutes is repealed and recreated to read:

18 813.123 (8) (a) 1. The clerk of the circuit court shall forward to the sheriff any
19 temporary restraining order, injunction, or other document or notice that must be
20 served on the respondent under this section and the sheriff shall assist the petitioner
21 in executing or serving the temporary restraining order, injunction, or other
22 document or notice on the respondent. The petitioner may, at his or her expense,
23 elect to use a private server to effect service.

24 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
25 provide a form supplied by the sheriff to the petitioner that allows the petitioner to

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1 provide information about the respondent that may be useful to the sheriff in
2 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
3 shall maintained the form provided under this subdivision in a confidential manner.

4 **SECTION 8.** 813.123 (8) (d) of the statutes is created to read: ✓

5 813.123 (8) (d) A law enforcement agency and a clerk of circuit court may use
6 electronic transmission to facilitate the exchange of documents under this section.
7 Any person who uses electronic transmission shall ensure that the electronic
8 transmission does not allow unauthorized disclosure of the documents transmitted.

9 **SECTION 9.** 813.125 (5g) (c) of the statutes is amended to read: ✓

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

16 **SECTION 10.** 813.125 (5g) (cm) of the statutes is created to read: ✓

17 813.125 (5g) (cm) 1. The clerk of the circuit court shall forward to the sheriff
18 any temporary restraining order, injunction, or other document or notice that must
19 be served on the respondent under this section and the sheriff shall assist the
20 petitioner in executing or serving the temporary restraining order, injunction, or
21 other document or notice on the respondent. The petitioner may, at his or her
22 expense, elect to use a private server to effect service.

23 2. If the petitioner elects service by the sheriff, the clerk of circuit court shall
24 provide a form supplied by the sheriff to the petitioner that allows the petitioner to
25 provide information about the respondent that may be useful to the sheriff in

BILL**SECTION 10**

1 effecting service. The clerk shall forward the completed form to the sheriff. The clerk
2 shall maintain the form provided under this subdivision in a confidential manner.

3 **SECTION 11.** 813.125 (5g) (e) of the statutes is created to read:

4 813.125 (5g) (e) A law enforcement agency and a clerk of circuit court may use
5 electronic transmission to facilitate the exchange of documents under this section.
6 Any person who uses electronic transmission shall ensure that the electronic
7 transmission does not allow unauthorized disclosure of the documents transmitted.

8 **SECTION 12.** 813.126 of the statutes is renumbered 813.126 (1).

9 **SECTION 13.** 813.126 (1) (title) of the statutes is created to read:

10 813.126 (1) (title) TIME LIMITS.

11 **SECTION 14.** 813.126 (2) of the statutes is created to read:

12 813.126 (2) NOTICE. The clerk of circuit court shall provide notice of a motion
13 under sub. (1) to the nonmoving party. This subsection does not apply to a motion
14 to review a denial of a temporary restraining order.

15 **SECTION 15. Effective date.**

16 (1) This act takes effect on the first day of the 2nd month beginning after
17 publication.

18 (END)

Barman, Mike

From: Brabender, Lindsey
Sent: Tuesday, December 22, 2015 9:09 AM
To: LRB.Legal
Subject: Draft Review: LRB -1674/3

Please Jacket LRB -1674/3 for the SENATE.