



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Assembly Bill 615

Assembly Amendment 1

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Contact: Melissa Schmidt, Senior Staff Attorney (266-2298)

BACKGROUND

Under current law, an individual who is, or who acts on behalf of, a victim of domestic abuse, child abuse, harassment, or individuals at risk (petitioner) may obtain from a court a temporary restraining order against the person who has committed an act of abuse, harassment, or makes a threat to do so (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.

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 service of process, or attempts at service, upon the respondent or in attaining physical possession of the petitioner's residence. The sheriff may not collect a fee for service of process from a petitioner for serving the petitioner with a petition for any of the following: (1) a domestic abuse restraining order and injunction; (2) a child abuse restraining order and injunction; or (3) a restraining order and injunction for an individual at risk. Instead, the fee must be collected from the respondent. However, in some petitions requesting a harassment restraining order and injunction, a fee for service of process, and attempts at service, may be collected from the petitioner (i.e., cases involving stalking).

2015 ASSEMBLY BILL 615

Under Assembly Bill 615 (the 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. 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 and who uses an automated victim notification system to give the petitioner timely notification of the service.

ASSEMBLY AMENDMENT 1

Assembly Amendment 1 clarifies that, with respect to a petition for a harassment restraining order or injunction, if the petitioner is required to pay a service fee to the sheriff, the petitioner must pay the fee directly to the sheriff.

BILL HISTORY

On January 14, 2016, the Assembly Committee on Criminal Justice and Public Safety voted to recommend passage of the bill by a vote of Ayes, 13; Noes, 0. On January 27, 2016, Representative Loudenbeck introduced Assembly Amendment 1. On February 9, 2016, the Assembly voted to adopt Assembly Amendment 1 on a voice vote, and subsequently voted to pass the bill, as amended, by a vote of Ayes, 94; Noes, 3.

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