



Van H. Wanggaard

Wisconsin State Senator

February 11, 2015

Testimony in Support of Assembly Bill 10/Senate Bill 9

Thank you, Mr. Chairman and members of the committee, for scheduling this hearing on Senate Bill 9. This bill strengthens legal protections for victims of domestic abuse, child abuse, or harassment, and empowers Wisconsin law enforcement officers and courts to extend protections to these victims from abusers located outside Wisconsin. I am happy to have co-authored this legislation with Representative Loudenberg, and I am pleased to testify in support of the proposal. We have a great piece of legislation here that has garnered bipartisan support, and it is time that we pass this bill.

During my 30 years in law enforcement, I dealt with domestic abuse cases. We know that stalking and harassment do not stop at state lines, but our laws do not recognize that. Currently, victims in Wisconsin are prevented from obtaining restraining orders against individuals who are abusing, threatening or harassing them from other states. This leaves our citizens and visitors vulnerable to modern avenues of harassment, including social media, text messages and email. These new technologies allow abusers to harass their victims from undisclosed locations without repercussion. This is unacceptable. Forms of harassment such as these can carry real danger, and it is important that we give victims the ability to obtain restraining orders against abusers, no matter where the abusers live. Senate Bill 9 seeks to update our laws to reflect this.

This bill also strengthens legal protections for victims by empowering judges with ability to issue restraining orders in cases that clearly warrant protection but currently no law is applicable. Often judges review a case and determine that the facts should result in a restraining order but they cannot issue one simply based on state boundaries. Furthermore, it clarifies jurisdiction for law enforcement officers so they can act to prevent harm when they know it is imminent.

That is what this bill is about—protecting victims of abuse, empowering the courts and officers of the law, strengthening safety measures, and helping to prevent further victimization. We want to protect our citizens to the best of our ability. Victims of harassment should not have to second guess whether Wisconsin law can shield them from an abuser. Senate Bill 9 allows victims to obtain restraining orders against anyone abusing, threatening or harassing them from other states. This bill is a non-partisan effort to strengthen victim rights, and I therefore urge you to vote in favor Senate Bill 9. Thank you.

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Amy Loudenbeck

REPRESENTING WISCONSIN'S 31ST ASSEMBLY DISTRICT

Testimony of Rep. Amy Loudenbeck
Senate Bill 9
Senate Committee on Judiciary and Public Safety
February 11, 2015

Thank you, Mr. Chairman, Representatives, for the opportunity to speak on this bill that protects victims who are being abused, harassed or threatened from out of state.

We live in a highly mobile, high-tech society, and sometimes our laws need to be updated to reflect current reality.

Senate Bill 9 was written to clarify language in current law that often prevents victims in Wisconsin from obtaining restraining orders against individuals who are abusing, threatening or harassing them from other states.

The bill does not create a new law or a new penalty. It simply clarifies when the court has personal jurisdiction in certain actions for restraining orders or injunctions in cases of domestic abuse, child abuse or harassment.

In these types of cases, a victim may be unable to get a judge to review a request for a restraining order because personal jurisdiction cannot be determined. This may be because the abuser resides in another state, or it may be due to advances in technology such as email, social media and texting which allow stalkers and abusers to harass from undisclosed locations.

Under current law, if personal jurisdiction is unclear, the victim may be advised that the only option is to go to another state to apply for the restraining order. For many victims, this is an impossible or unnecessarily risky task.

Crimes such as domestic violence and child abuse don't distinguish between gender, race, socio-economic status, state borders, or political parties. I encourage all members to support this bill to protect victims by empowering judges with the authority to consider restraining order applications based on facts and allowing victims to "get their day in court".

I would be happy to answer any questions at this time.

testimony



To: Members of the Senate Committee on
Judiciary and Public Safety

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Date: February 10, 2013

From: Tony Gibart, Public Policy Director

Chairman Wanggaard and Members of the Committee, thank you for the opportunity to provide testimony in support of Senate Bill 9. I want to thank Sen. Wanggaard and Rep. Loudenbeck for authoring this important bill. My name is Tony Gibart, and I am with End Domestic Abuse Wisconsin. We are the statewide voice for local domestic violence victim service providers and survivors in Wisconsin. Our members serve victims in all of the state's 72 counties and 11 tribes.

At End Abuse, we field legal questions from advocates and domestic violence victims around the state. Many times victims or advocates call us because they are experiencing intense frustration at a provision in the law or legal interpretation that defies commonsense and seemingly puts the victim at risk unnecessarily. Senate Bill 9 addresses a legal problem that, based on the calls we receive, victims are facing with increasing frequency: the denial of restraining order petitions on jurisdictional grounds, even when the victim has solid evidence that the abuser is currently threatening and harassing him or her.

Senate Bill 9 will ensure that our courts are authorized to consider restraining order petitions to protect Wisconsinites from abuse, stalking and harassment that was committed or is being committed by an individual who is not in Wisconsin.

Let me explain. As a prerequisite to any civil action—including a petition for a restraining order—the court must find it has personal jurisdiction over the defendant. Personal jurisdiction is conferred by statute, and, in general terms, it currently requires that the defendant be in Wisconsin, reside in Wisconsin or that the defendant commit an act in Wisconsin that gives rise to the legal action. Most of the specific language of our personal jurisdiction statutes was written with things like personal injury or product liability suits in mind, not potentially life-threatening cases of violence, stalking or harassment.

Therefore, the current personal jurisdiction statutes have been interpreted to deny Wisconsin courts the authority to act in situations for which most people would assume restraining orders are available. Say for instance, a young woman from Manitowoc attends college in Chicago. During her freshman year she dates a classmate for several months. Towards the end of the spring semester she breaks up with the classmate, because he is being controlling. She then returns home to work for the summer at the family business in Manitowoc. Her ex-boyfriend, who is still living in Chicago, is now constantly sending her threatening emails and facebook messages. Under current law, this young woman may be denied a restraining order, because the ex-boyfriend is not in Wisconsin and has no connection with Wisconsin. Or take another situation: a woman lives in Minneapolis with her husband. The husband has repeatedly been violent to her, and one day he comes home drunk and strangles the woman. The woman decides she must leave immediately and flees to her parents' house in Eau Claire. The husband calls the parents, saying that he knows his wife is there and that she had better come home or he will destroy all of her possessions. The woman's request for a restraining order in Wisconsin might be denied for the same reasons as the college student's request.

Senate Bill 9 corrects this needless gap in our law by creating jurisdictional statutes specifically for restraining orders, so that victims in Wisconsin, at the very least, have access to our courts and the protection of our restraining orders.

Before concluding, there are two other aspects of the bill that I would like to point out:

- Alleged abusers (respondents) who are out-of-state must be served with notice of the restraining order hearing and given the same opportunity to contest the petition as provided under current law to individuals in Wisconsin.
- Under federal law, Wisconsin restraining orders are valid in every other state, and if violations occur in another state the abuser can be prosecuted entirely under the laws of that other state. So, a restraining order issued under this bill would be more than "just a piece of paper." It could be a ticket for the out-of-state abuser to face real accountability for continued abuse, stalking or harassment. In addition, the issuance of a Wisconsin restraining order against someone who is engaged in abuse from another state can help law enforcement more efficiently respond to inter-state abuse. Because the abuser can be arrested and prosecuted entirely in the home state, there is less of a need for more complicated coordination between law enforcement agencies in two different states, and the need to extradite the defendant to Wisconsin to face possible criminal charges here is completely eliminated.

It almost goes without saying that in an increasingly mobile and technology driven society the incidence of inter-state abuse cases will continue to grow. It certainly would be comforting if abuse, stalking and harassment couldn't cross state lines. But, that of course is not the reality. Senate Bill 9 will offer victims a fair chance to get the protection they deserve when they are threaten or harassed by a person in another state. I urge the committee to support this bill. Thank you.