



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0250/1
MLJ:klm

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 520**

October 26, 2021 - Offered by Representative DITTRICH.

1 **AN ACT to amend** 813.126 (title), 813.126 (1) (title) and 813.126 (2); and **to**
2 **create** 813.12 (4) (d) 1m., 813.122 (5) (dm) 1m., 813.123 (5) (d) 1m., 813.125 (4)
3 (d) 1m. and 813.126 (1m) of the statutes; **relating to:** permanent restraining
4 orders for victims of sexual assault.

Analysis by the Legislative Reference Bureau

Under current law, a person who files a request for a restraining order is called a “petitioner” and the person against whom protection is being sought is called the “respondent.” Under current law, a restraining order may be issued for an adult petitioner for a period of up to four years and for a child petitioner for a period of up to two years or until the child attains the age of 18, whichever comes first. Restraining orders may be extended by up to four years for adults or two years for children, or up to 10 years for adults or five years for children if the court finds that there is a substantial risk that the respondent may commit homicide against or sexually assault the petitioner.

This bill provides that if the court finds by clear and convincing evidence that the respondent has been convicted of the sexual assault of the petitioner, the restraining order must be permanent. The bill also creates a process for a respondent to petition the court to remove the permanent restraining order if the criminal

conviction that formed the basis for the permanent restraining order has been vacated.

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

1 **SECTION 1.** 813.12 (4) (d) 1m. of the statutes is created to read:

2 813.12 (4) (d) 1m. A judge or circuit court commissioner shall order that the
3 injunction is in effect permanently if the court finds by clear and convincing evidence
4 that the respondent has been convicted of a violation of s. 940.225 (1) to (3) in which
5 the petitioner was the crime victim. An order based on a finding under this
6 subdivision is subject to review and modification under s. 813.126 (1m).

7 **SECTION 2.** 813.122 (5) (dm) 1m. of the statutes is created to read:

8 813.122 (5) (dm) 1m. A judge shall order that the injunction is in effect
9 permanently if the court finds by clear and convincing evidence that the respondent
10 has been convicted of a violation of s. 948.02 or 948.025 in which the child victim was
11 the crime victim. An order based on a finding under this subdivision is subject to
12 review and modification under s. 813.126 (1m).

13 **SECTION 3.** 813.123 (5) (d) 1m. of the statutes is created to read:

14 813.123 (5) (d) 1m. A judge shall order that the injunction is in effect
15 permanently if the court finds by clear and convincing evidence that the respondent
16 has been convicted of a violation of s. 940.225 (1) to (3) in which the individual at risk
17 was the crime victim. An order based on a finding under this subdivision is subject
18 to review and modification under s. 813.126 (1m).

19 **SECTION 4.** 813.125 (4) (d) 1m. of the statutes is created to read:

20 813.125 (4) (d) 1m. A judge or circuit court commissioner shall order that the
21 injunction is in effect permanently if the court finds by clear and convincing evidence

1 that the respondent has been convicted of a violation of s. 940.225 (1) to (3) in which
2 the petitioner was the crime victim. An order based on a finding under this
3 subdivision is subject to review and modification under s. 813.126 (1m).

4 **SECTION 5.** 813.126 (title) of the statutes is amended to read:

5 **813.126 (title) New hearing or petition for review.**

6 **SECTION 6.** 813.126 (1) (title) of the statutes is amended to read:

7 813.126 (1) (title) TIME LIMITS FOR DE NOVO HEARING.

8 **SECTION 7.** 813.126 (1m) of the statutes is created to read:

9 813.126 (1m) HEARING TO REVIEW A PERMANENT INJUNCTION. If a respondent's
10 criminal conviction that formed the basis for a permanent injunction in an action
11 under s. 813.12, 813.122, 813.123, or 813.125 has been vacated, the respondent may
12 file a motion requesting a hearing to review the injunction. The court shall hold the
13 review hearing within 30 days after the motion requesting the hearing is filed with
14 the court unless the court finds good cause for an extension. At the hearing, if the
15 judge finds that the conviction that formed the basis for the permanent injunction
16 has been vacated, the judge shall modify the duration of the injunction or vacate the
17 injunction. In so modifying or vacating the injunction, the judge shall consider all
18 relevant factors, including the risk to the petitioner and the time that has passed
19 since the injunction was ordered. No modified injunction ordered under this
20 subsection may be in effect for a longer period than the maximum period that would
21 have been possible when the injunction was first ordered if the injunction had not
22 been permanent. If the maximum possible period from the time the injunction was
23 first ordered has elapsed, the judge shall vacate the injunction.

24 **SECTION 8.** 813.126 (2) of the statutes is amended to read:

