
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Assembly Bill 520

**Assembly Amendment 2 to
Assembly Substitute
Amendment 2**

BACKGROUND

Wisconsin law contains procedures allowing a person to petition a court for an order that requires another individual to refrain from certain acts against the petitioner. While informally referred to as “restraining orders,” these types of procedures consist of two steps: a temporary restraining order (TRO) and an injunction. The four types of TROs and injunctions that are authorized in Wisconsin are: (1) domestic abuse; (2) child abuse; (3) individual-at-risk; and (4) harassment.

Injunctions are effective for a duration ordered by the court, though domestic abuse, individual-at-risk, and harassment injunctions may not exceed four years in duration, and child abuse injunctions may not exceed two years or until the child victim attains 18 years of age, whichever occurs first.

However, a judge may issue a domestic abuse, individual-at-risk, or harassment injunction for up to 10 years, if the judge finds, by a preponderance of the evidence stated on the record, a substantial risk that the respondent may commit certain forms of intentional homicide or sexual assault against the petitioner. A circuit court commissioner also has this authority for domestic abuse and harassment injunctions. Similarly, a judge may order a child abuse injunction to be in effect for up to five years, if the court finds, by a preponderance of the evidence stated on the record, a substantial risk that the respondent may commit certain forms of intentional homicide or sexual assault against the child victim.

2021 ASSEMBLY BILL 520

2021 Assembly Bill 520 requires the court, when certain conditions are met, to enter a permanent injunction in each of the four types of restraining orders that exist under current law.

Specifically, under the bill, the judge or court commissioner must order that an injunction be in effect permanently if the court finds, by a preponderance of the evidence stated on the record, that the respondent has been convicted of first-, second-, or third-degree sexual assault (or, in the case of a child abuse injunction, convicted of sexual assault of a child or repeated acts of sexual assault of the same child) and the petitioner (or child victim, if applicable) was the crime victim.

ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Substitute Amendment 2 modifies the bill, as follows:

- Authorizes a court to enter a permanent injunction only upon the request of the petitioner.
- Removes the bill’s references to a “court commissioner” in the context of individual-at-risk and child abuse injunctions, as court commissioners lack authority to enter those types of injunctions under current law.

- Eliminates the requirement for the court to find “by a preponderance of evidence” that the respondent has been convicted of the specified crimes against the petitioner and requires the court to enter the permanent injunction if the respondent has been convicted of the specified crimes against the petitioner.
- Creates a procedure for a respondent to request review of a permanent injunction if the respondent’s criminal conviction that formed the basis for a permanent injunction is vacated and, in that circumstance, requires a judge to vacate or modify the duration of the injunction. If modified, the injunction may not be in effect for a longer period than the maximum period that would have been possible when the injunction was first ordered had the injunction not been permanent, and the judge must vacate the injunction if the maximum possible period from the time the injunction was first ordered has elapsed.

ASSEMBLY AMENDMENT 2 TO ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Amendment 2 to Assembly Substitute Amendment 2 authorizes, but does not require, a court to enter a permanent injunction, at the request of the petitioner, if the respondent has been convicted of the specified crimes against the petitioner.

BILL HISTORY

Representative Dittrich introduced Assembly Substitute Amendment 2 on January 19, 2022, and Assembly Amendment 2 to Assembly Substitute Amendment 2 on February 7, 2022. On February 9, 2022, the Assembly Committee on Criminal Justice and Public Safety recommended adoption of Assembly Amendment 2 to Assembly Substitute Amendment 2 on a vote of Ayes, 13; Noes, 0; adoption of Assembly Substitute Amendment 2, as amended, on a vote of Ayes 13; Noes, 0, and recommended passage of the bill, as amended, on a vote of Ayes, 15; Noes, 0.

PJH:ksm