

# State of Wisconsin



2013 Assembly Bill 176

Date of enactment: April 16, 2014  
Date of publication\*: April 17, 2014

## 2013 WISCONSIN ACT 322

AN ACT to renumber 813.122 (3) (bm); to renumber and amend 813.122 (3) (b) 2. and 3.; to consolidate, renumber and amend 813.122 (3) (b) (intro.) and 1.; to amend 786.37 (4), 813.12 (1) (am) 6., 813.12 (3) (c), 813.12 (4) (c) 4., 813.122 (4) (c), 813.122 (5) (d) 4., 813.123 (4) (c), 813.123 (5) (c) 4., 813.125 (3) (a) (intro.), 813.125 (3) (c), 813.125 (4) (a) (intro.) and 813.126; and to create 48.235 (8) (c) 3., 801.58 (2m), 813.12 (1) (am) 4., 813.122 (5g) and 813.123 (5g) of the statutes; relating to: temporary restraining orders and injunctions for domestic abuse, child abuse, individuals at risk, and harassment, confidential name change petitions, and ex parte orders with a judge substitution.

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

**SECTION 1.** 48.235 (8) (c) 3. of the statutes is created to read:

48.235 (8) (c) 3. In a proceeding under s. 813.122 or 813.125, the court may not order the child victim or any parent, stepparent, or legal guardian of the child victim who is not a party to the action, to pay any part of the compensation of the guardian ad litem.

**SECTION 2.** 786.37 (4) of the statutes is amended to read:

786.37 (4) Subsection If a petitioner requests that his or her petition to change or establish a name remain confidential, the clerk of court shall ensure that the name change petition is confidential upon the filing of the petition and sub. (1) does not apply if to the petitioner shows. The court may require the petitioner to comply with sub. (1) if the petitioner is unable to show, by a preponderance of the evidence, that publication of his or her petition could endanger him or her and that he or she is not seeking a name change in order to avoid a debt or conceal a criminal record.

**SECTION 3.** 801.58 (2m) of the statutes is created to read:

801.58 (2m) If, under sub. (2), the judge determines that the request for substitution was made timely and in proper form, any ex parte order granted by the original judge remains in effect according to the terms, except that a temporary restraining order issued under s. 813.12 (3), 813.122 (4), 813.123 (4), or 813.125 (3) by the original judge is extended until the newly assigned judge holds a hearing on the issuance of an injunction. The newly assigned judge shall hear any subsequent motion to modify or vacate any ex parte order granted by the original judge.

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

813.12 (1) (am) 4. A violation of s. 940.32.

**SECTION 5.** 813.12 (1) (am) 6. of the statutes is amended to read:

813.12 (1) (am) 6. A threat to engage in the conduct under subd. 1., 2., 3., 4., or 5.

**SECTION 6.** 813.12 (3) (c) of the statutes is amended to read:

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

813.12 (3) (c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4). The temporary restraining order is not voided if the respondent is admitted into a dwelling that the order directs him or her to avoid. A judge or circuit court commissioner shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s. 801.58 (2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

**SECTION 7.** 813.12 (4) (c) 4. of the statutes is amended to read:

813.12 (4) (c) 4. Notice need not be given to the respondent before extending an injunction under subd. 2. The ~~petitioner~~ clerk of courts shall notify the respondent after the court extends an injunction under subd. 2.

**SECTION 8.** 813.122 (3) (b) (intro.) and 1. of the statutes are consolidated, renumbered 813.122 (3) (b) 1m. and amended to read:

813.122 (3) (b) 1m. ~~The Except as provided in subd. 2m., the court or circuit court commissioner, on its or his or her own motion or the motion of any party, may order one or more of the following: 1. That that~~ a guardian ad litem be appointed for the child victim in accordance with s. 48.235.

**SECTION 9.** 813.122 (3) (b) 2. and 3. of the statutes are renumbered 813.122 (3) (bp) and (bq) and amended to read:

813.122 (3) (bp) ~~That all~~ All persons, other than the parties, their attorneys, witnesses, child victim advocates, service representatives, as defined in s. 895.45 (1) (c), court personnel and any guardian ad litem, shall be excluded from any hearing under this section.

(bq) ~~That access to any~~ Any record of an action under this section ~~be is confidential and is~~ available only to the parties, their attorneys, any guardian ad litem, court personnel, the child victim, law enforcement, and any applicable court upon appeal, except that a record may be available to any other person as required by law, as necessary to effect service, or upon a court order for good cause shown.

**SECTION 10.** 813.122 (3) (bm) of the statutes is renumbered 813.122 (3) (b) 2m.

**SECTION 11.** 813.122 (4) (c) of the statutes is amended to read:

813.122 (4) (c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (5). A judge shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s.

801.58 (2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

**SECTION 12.** 813.122 (5) (d) 4. of the statutes is amended to read:

813.122 (5) (d) 4. Notice need not be given to the respondent before extending an injunction under subd. 2. or 3. The ~~petitioner~~ clerk of courts shall notify the respondent after the court extends an injunction under subd. 2. or 3.

**SECTION 13.** 813.122 (5g) of the statutes is created to read:

813.122 (5g) CONFIDENTIALITY OF ADDRESSES. The petition under sub. (6) and the court order under sub. (4) or (5) may not disclose the address of the petitioner or of the alleged child victim. The petitioner shall provide the clerk of circuit court with the address of the petitioner and of the alleged child victim when he or she files a petition under this section. The clerk shall maintain the addresses in a confidential manner.

**SECTION 14.** 813.123 (4) (c) of the statutes is amended to read:

813.123 (4) (c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (5). A judge shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s. 801.58 (2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

**SECTION 15.** 813.123 (5) (c) 4. of the statutes is amended to read:

813.123 (5) (c) 4. Notice need not be given to the respondent before extending an injunction under subd. 2. or 3. The ~~petitioner~~ clerk of courts shall notify the respondent after the court extends an injunction under subd. 2. or 3.

**SECTION 16.** 813.123 (5g) of the statutes is created to read:

813.123 (5g) CONFIDENTIALITY OF ADDRESSES. The petition under sub. (6) and the court order under sub. (4) or (5) may not disclose the address of the petitioner or of the individual at risk. The petitioner shall provide the clerk of circuit court with the address of the petitioner and of the individual at risk when he or she files a petition under this section. The clerk shall maintain the addresses in a confidential manner.

**SECTION 17.** 813.125 (3) (a) (intro.) of the statutes is amended to read:

813.125 (3) (a) (intro.) A judge or circuit court commissioner may issue a temporary restraining order ordering the respondent to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner without the petitioner's written consent; to cease or avoid the harassment of another person; to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both; or any combination of these remedies requested in the petition, if all of the following occur:

**SECTION 18.** 813.125 (3) (c) of the statutes is amended to read:

813.125 (3) (c) The temporary restraining order is in effect until a hearing is held on issuance of an injunction under sub. (4). A judge or circuit court commissioner shall hold a hearing on issuance of an injunction within 14 days after the temporary restraining order is issued, unless the time is extended upon the written consent of the parties, extended under s. 801.58 (2m), or extended once for 14 days upon a finding that the respondent has not been served with a copy of the temporary restraining order although the petitioner has exercised due diligence. A judge or court commissioner may not extend the temporary restraining order in lieu of ruling on the issuance of an injunction.

**SECTION 19.** 813.125 (4) (a) (intro.) of the statutes is amended to read:

813.125 (4) (a) (intro.) A judge or circuit court commissioner may grant an injunction ordering the respondent to avoid contacting or causing any person other than a party's attorney or a law enforcement officer to contact the petitioner without the petitioner's written consent; to cease or avoid the harassment of another person; to avoid the petitioner's residence, except as provided in par. (am), or any premises temporarily occupied by the petitioner or both; or any combination of these remedies requested in the petition, if all of the following occur:

**SECTION 20.** 813.126 of the statutes is amended to read:

**813.126 New hearing.** 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.

**SECTION 21. Initial applicability.**

(1) NAME CHANGE PETITIONS. The treatment of section 786.37 (4) of the statutes first applies to petitions filed on the effective date of this subsection.

(2) CLOSED HEARINGS AND SEALED RECORDS IN ACTIONS FOR CHILD ABUSE TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS. The treatment of section 813.122 (3) (b) (intro.), 1., 2., and 3. and (bm) of the statutes first applies to a petition filed under section 813.122 of the statutes on the effective date of this subsection.

(3) CONFIDENTIALITY OF ADDRESSES. The treatment of sections 813.122 (5g) and 813.123 (5g) of the statutes first applies to a petition filed under section 813.122 or 813.123 of the statutes on the effective date of this subsection.

(4) HARASSMENT ORDERS. The treatment of section 813.125 (3) (a) (intro.) and (4) (a) (intro.) of the statutes first applies to a temporary restraining order or injunction issued under section 813.125 of the statutes on the effective date of this subsection.

(5) NEW HEARINGS. The treatment of section 813.126 of the statutes first applies to a motion requesting a de novo hearing filed on the effective date of this subsection.