



2015 SENATE BILL 9

January 23, 2015 – Introduced by Senators WANGGAARD, HARSDORF, PETROWSKI, ERPENBACH, GUDEX, MARKLEIN, MOULTON, NASS, OLSEN, VINEHOUT and L. TAYLOR, cosponsored by Representatives LOUDENBECK, JACQUE, BALLWEG, BILLINGS, BORN, CZAJA, DOYLE, HINTZ, HUTTON, JAGLER, JOHNSON, KAHL, KERKMAN, KLEEFISCH, KREMER, MURPHY, MURSAU, NEYLON, OHNSTAD, PETERSEN, RIPP, RODRIGUEZ, ROHRKASTE, SARGENT, SPREITZER, SPIROS, STEFFEN, SUBECK, THIESFELDT, TITTL, WEATHERSTON, BERNIER, BOWEN, E. BROOKS, T. LARSON, SINICKI, STEINEKE, SWEARINGEN, TRANEL and ZAMARRIPA. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT to amend** 801.04 (1); and **to create** 801.05 (11m) and 813.015 of the
2 statutes; **relating to:** jurisdiction in matters relating to domestic abuse
3 restraining orders and injunctions, child abuse restraining orders and
4 injunctions, and harassment restraining orders and injunctions.

Analysis by the Legislative Reference Bureau

Under current law, a court may entertain a civil action only when the court has jurisdiction over the subject matter of the action and over the persons who are served in the action. Jurisdiction is conferred by the U.S. Constitution, the Wisconsin Constitution, and by statute.

This bill clarifies the circumstances in which a court has subject matter and personal jurisdiction in certain actions for restraining orders or injunctions in cases of domestic abuse, child abuse, or harassment. Under the bill, a court has jurisdiction of the subject matter to entertain those actions regardless of whether the alleged abuse or harassment occurred within the state. Under the bill, a court has personal jurisdiction over a person who is in another state if any of the following applies:

1. An act or threat that occurred outside this state is part of an ongoing pattern of harassment that has an adverse effect on the petitioner or a member of the petitioner's family or household if, while the petitioner or a member of the petitioner's family or household resides in this state, the respondent communicated with the petitioner or his or her family or indicated a threat to the petitioner or to a member of his or her family or household.

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2. The petitioner or a member of the petitioner's family or household has sought safety or protection in this state as a result of the respondent's actions or threats if, while the petitioner or a member of the petitioner's family or household resides in this state, the respondent communicated with the petitioner or his or her family or indicated a threat to the petitioner, or a member of his or her family or household.

3. Jurisdiction is otherwise permissible under the constitution of the United States or of the state of Wisconsin.

If a court has personal jurisdiction on any of the listed grounds and a respondent has been served but does not appear or file a response or motion asserting the defense of lack of personal jurisdiction, the bill requires the court to hear the action.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 801.04 (1) of the statutes is amended to read:

2 801.04 (1) JURISDICTION OF SUBJECT MATTER REQUIRED FOR ALL CIVIL ACTIONS. A
3 court of this state may entertain a civil action only when the court has power to hear
4 the kind of action brought. The power of the court to hear the kind of action brought
5 is called "jurisdiction of the subject matter". Jurisdiction of the subject matter is
6 conferred by the constitution and statutes of this state and by statutes of the United
7 States; it cannot be conferred by consent of the parties. Nothing Except as provided
8 in s. 813.015, nothing in chs. 801 to 847 affects the subject matter jurisdiction of any
9 court of this state.

10 **SECTION 2.** 801.05 (11m) of the statutes is created to read:

11 801.05 (11m) CERTAIN RESTRAINING ORDERS OR INJUNCTIONS. (a) Subject to subch.
12 II of ch. 822, and in addition to personal jurisdiction under sub. (1) and s. 801.06, in
13 any action filed pursuant to s. 813.12, 813.122, or 813.125, if any of the following
14 apply:

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1 1. Subject to par. (b), an act or threat of the respondent giving rise to the petition
2 occurred outside the state and is part of an ongoing pattern of harassment that has
3 an adverse effect on the petitioner or a member of the petitioner's family or
4 household, and the petitioner resides in this state.

5 2. Subject to par. (b), the petitioner or a member of the petitioner's family or
6 household has sought safety or protection in this state as a result of an act or threat
7 of the respondent giving rise to the petition.

8 3. Personal jurisdiction is permissible under the constitution of the United
9 States or of the state of Wisconsin.

10 (b) Paragraph (a) 1. or 2. applies if, while the petitioner or a member of the
11 petitioner's family or household resides or is temporarily living in this state, the
12 respondent has had direct or indirect communication with the petitioner or a
13 member of the petitioner's family or household or if the respondent has indicated a
14 threat to the physical health or safety of the petitioner or of a member of the
15 petitioner's family or household. A communication or indication for the purpose of
16 this paragraph includes communication through mail, telephone, electronic message
17 or transmittal, and posting on an electronic communication site, web page, or other
18 electronic medium. Communication on any electronic medium that is generally
19 available to any individual residing in this state is sufficient to exercise jurisdiction
20 under par. (a) 1. or 2.

21 (c) If a court has personal jurisdiction pursuant to par. (a) and a respondent has
22 been served but does not appear or does not file a response or motion asserting the
23 defense of lack of personal jurisdiction, the court shall hear the action. This
24 paragraph does not limit the respondent's right to challenge personal jurisdiction on
25 appeal.

