



State Senator Sheila Harsdorf

Date: September 5, 2013

To: Senate Committee on Transportation, Public Safety, and Veterans and Military Affairs

Fr: Senator Sheila Harsdorf

Re: Senate Bill 153 – clarifying jurisdiction of Wisconsin courts to protect domestic violence victims from abusers who reside in other states

Chairman Petrowski and Committee Members,

Thank you for holding a public hearing on Senate Bill 153 (SB 153), which seeks to make a change in state law that prevents victims in Wisconsin from obtaining restraining orders against individuals who are abusing, threatening, or harassing them from other states.

Courts currently do not have the authority under state law to place a restraining order on someone outside of Wisconsin. Not having this authority ties the hands of judges, leaving them only with the ability to inform the victim that their only option to seek relief is to go to another state and file a restraining order there.

Under this bill, courts will be provided guidelines specific to restraining order actions that allow victims to apply for orders that protect them from individuals in other states. Nothing in this bill requires the court to issue a restraining order; it simply allows the victim to have their day in court. Additionally, as federal law provides that court rulings from one state are honored in other states, restraining orders issued by Wisconsin courts are fully enforceable across state lines.

I am introducing this legislation in order to allow victims of domestic abuse and stalking to seek protections without having the additional burden of traveling to another state to do so. Victims of domestic abuse and stalking live in fear every day and the decision to apply for a restraining order is not an easy one. Requiring a victim to apply in the state the perpetrator resides can sometimes be an impossible task and is unnecessarily risky.

In today's society and with advances in technology and communication, stalking and harassment over social media sites are becoming more and more common. Additionally, as a legislator whose district lies adjacent to the State of Minnesota, I know that threatening individuals can live nearby yet still be in a neighboring state. We need to ensure that victims of these crimes are able to seek protection without unnecessary, costly, and burdensome travel to another state.

I urge committee members to support this legislation in an effort to minimize the devastating impact of domestic violence, harassment, and stalking. Thank you for your consideration.

testimony



To: Members of the Senate Committee on
Transportation, Public Safety, and Veterans and
Military Affairs

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From: Tony Gibart, Public Policy Coordinator

Chairman Petrowski and Members of the Committee, thank you for the opportunity to provide testimony in support of Senate Bill 153. I want to thank Sen. Harsdorf and Rep. Loudenberg 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 153 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 153 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 and her children live in Minneapolis with her husband and their father. The husband has repeatedly been violent to the mother, but one day he comes home drunk and physically abuses the children. The mother decides she must leave immediately and flees with the children to her parents' house in Eau Claire. The mother's request for a restraining order might be denied for the same reasons as the college student's request.

Senate Bill 153 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 153 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.