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# **Budget Briefs**

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## **DOMESTIC ABUSE AND STALKING**

2001 Wisconsin Act 109, the budget reform act, passed by the legislature and signed by Governor Scott McCallum on July 26, 2002, contains provisions to expand the definition of domestic abuse, streamline court procedures for domestic abuse victims, and strengthen laws against domestic abuse and stalking.

### **BACKGROUND**

According to the Centers for Disease Control and Prevention, approximately 1.5 million women and 834,700 men are assaulted in the United States each year by a domestic partner, defined as a current or former spouse, a current or former boyfriend or girlfriend, or a current or former dating partner. Nationally, nearly two-thirds of women who reported being raped, physically assaulted, or stalked since age 18 were victimized by a current or former husband, cohabitating partner, boyfriend, or date. Each year, more than 500,000 of those women require hospitalization for injuries sustained as a result of the assault.

Wisconsin law provides certain special protections to victims of stalking or assault by a domestic partner. The new provisions widen the scope of those protections, ease a victim's passage through the court system, and afford victims additional protections. The provisions included in the budget reform act were previously introduced in separate legislation which failed to pass during the 2001 legislative session.

### **DOMESTIC ABUSE DEFINITION EXPANDED**

Act 109 expands the definition of a domestic relationship for purposes of the domestic abuse law. Under current law, a domestic relationship is formed by adult persons who are family members, members or former members of the same household, former spouses, or who have a child in common. The act adds individuals who have or had a dating relationship or who are in a caregiver/ward relationship.

Under new law, a court must decide whether a relationship between two adults constitutes a dating relationship, based on the length of the relationship, the types of interaction, and the frequency of the interaction between the two adults. A dating relationship does not mean a casual relationship or one based on a business or ordinary social context.

Currently, various forms of physical assaults and the threat of physical assault are considered domestic abuse. Under the newly expanded law, damage to property (including pets), or the threat to damage property belonging to a person in a domestic relationship with the actor is also considered domestic abuse.

### **COURT PROCEEDINGS FOR VICTIMS OF DOMESTIC ABUSE**

In addition to simplifying the filing process for domestic abuse victims, the act broadens the options available to a court hearing a domestic abuse petition. As under former law, the new provisions allow a person who alleges domestic abuse to obtain a temporary restraining order against an alleged abuser immediately. After a hearing, a court may issue a domestic

abuse injunction to protect the victim from the abuser that is in effect for up to four years. Additionally, under the new law a court may order any remedy that is appropriate, regardless of whether it is specified in the statutes, so long as it is not inconsistent with the remedies requested in the petition.

## **STALKING**

Stalking has been prohibited by Wisconsin law since 1993. Stalking is engaging in a course of conduct (at least two occurrences that show a continuity of purpose), against a specific person that would make a reasonable person in that position fear bodily injury or death to himself or herself, a family member, or a member of his or her household. The act greatly expands the definition of "course of conduct" which includes acts such as being near, approaching, or contacting the victim; appearing at places the victim is likely to be; sending material or an object to the victim either directly or indirectly through a friend or contact of the victim; contacting the victim by telephone or engaging in nuisance telephoning; or entering the victim's property. This list is not exhaustive, and a court may consider other acts as evidence of stalking, so long as there are at least two occurrences and the other elements of the crime are met.

The act increases the penalty for stalking by changing its classification from a Class A misdemeanor to a Class E felony, with enhancements for special circumstances. For example, stalking a minor or stalking after conviction for harassment, prior stalking, a violent crime, or any crime against the current victim within the last seven years, is a Class D felony. Stalking that involves gaining access to an electronic record with identifying information regarding the victim or that involves unlawful wiretapping or tracing of a phone call is also a Class D felony. A stalking offense where the victim, a family member, or a member of his or her household suffers bodily harm, that involves a dangerous weapon, or that is committed within seven years of a conviction for a prior violent crime, stalking, or harassment against the same victim, is a Class C felony.

## **FOR MORE INFORMATION**

Relevant sections of the Wisconsin Statutes may be downloaded at: [www.legis.state.wi.us/rsb/stats.html](http://www.legis.state.wi.us/rsb/stats.html). Key sections include: 813.12, Domestic abuse restraining orders and injunctions, and 940.32, Stalking.

For information regarding stalking, domestic abuse, or restraining orders and injunctions, contact the Wisconsin Department of Health and Family Services, Domestic Abuse Division at (608) 266-9305 or the office of your County District Attorney.