

Alberta Darling

Wisconsin State Senator

Co-Chair, Joint Committee on Finance

TESTIMONY BEFORE THE SENATE COMMITTEE ON JUDICIARY AND PUBLIC SAFETY

Senate Bill 387

Senator Alberta Darling

Thursday, January 7 at 10:00 AM

Thank you Chairman Wanggaard and committee members for holding a public hearing on Senate Bill 387. The legislation before you today amends statutory language relating to changes in placement for children in the child welfare system.

This bill is an initiative of the Children's Court Improvement Program. The Program identified areas in the Children's Court that are problematic, unclear, or cause confusion. Accordingly, SB 387 provides procedural guidance, due process protection, and transparency where the statutes are silent or lack clarity regarding changes in placement for children in need of protection services (CHIPS), juveniles in need of protection services (JIPS), delinquency, and termination of parental rights cases.

The changes this legislation makes to statute will be immensely helpful to kids in the child welfare system. National data indicates that on average children will be displaced three times before finding a permanent home. Currently in Wisconsin, there are approximately 6,500 children in out-of-home care. Nearly half of these children will wait for almost two years before finding a permanent home. This bill provides clear statutory guidance to prevent confusion and aid in finding children a good, permanent home faster.

I'd like to thank the courts, the Department of Children and Families, and Representative Ballweg for contributing to this important piece of legislation. It brings me great joy to be able to collaboratively work with colleagues who share my dedication to improving the lives of Wisconsin's children.

Thank you again committee members for your time and consideration. I hope I can count on your support for SB 387.



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41ST ASSEMBLY DISTRICT

SB 387: Changing Child Placement
Testimony of State Representative Joan Ballweg
Senate Committee on Judiciary and Public Safety
January 7, 2016

Thank you, Chair Wanggaard, and members of the Committee on Judiciary and Public Safety for holding this public hearing.

Senate Bill 387 is a large bill with many technical changes to provide procedural guidance, due process protection, and transparency where the statutes are silent or lack clarity with regard to changes in placement for child in need of protection or services (CHIPS), juvenile in need of protection or services (JIPS), delinquency, and termination of parental rights (TPR) cases. This legislation was brought to me by the Office of the Director of State Courts. The Courts have worked at length with the Department of Children and Families and judges to get this extensive proposal together.

Bottom line, the procedures set forth in this proposal will ensure clarity for the courts, child welfare agencies, party attorneys, caregivers, parents and, most importantly, the children that are subject to these actions. At any given time there are over 6,500 Wisconsin children in out-of-home care placement. National data trends indicate that approximately half of children in placement will remain in out-of-home care for at least two years awaiting permanency. Our goal is to help remove any barriers to finding good, permanent homes for Wisconsin's children.

Here today are representatives from the Office of the Director of State Courts' Children's Court Improvement Program and Wisconsin judges. We'd like to defer to their expertise and content knowledge to give you a more thorough explanation of this legislation and its need across our state.

Thank you for your time.



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Testimony

Of

The Honorable Marshall B. Murray

Accompanied by The Honorable Jason A. Rossell and Attorney Bridget Bauman

In Support of

2015 Senate Bill 387

Regarding Procedures Involving Changes of Placement

Senate Committee on Judiciary and Public Safety

Senator Van Wanggaard, Chair

January 7, 2016

Thank you very much. My name is Marshall Murray. I have been a circuit court judge in Milwaukee County since 1999, including serving as Presiding Judge of both the Milwaukee County Domestic Violence Court and the Milwaukee County Children's Court. I am appearing here in favor of Senate Bill 387 on behalf of the Wisconsin Judicial Committee on Child Welfare, which I have chaired since 2012. SB 387, like its Assembly companion AB 514, would create and amend a number of court procedures related to changes in placement of children who have been placed outside of their home.

I appreciate the opportunity to appear before the committee today with two of my court system colleagues: Judge Jason Rossell of Kenosha County and Bridget Bauman, the director of the Children's Court Improvement Program. Judge Rossell has served on the bench since 2011, handling primarily juvenile court cases. Bridget has worked for the court system since 2004 and has traveled the entire state working with juvenile court personnel to improve their practices to benefit children in the child welfare system.

I also want to express our thanks to Sen. Darling and Rep. Ballweg for their willingness to take a leadership role on this legislation. Both of them have been strong advocates for children and leaders in the area of child welfare, particularly as it relates to the foster care system.

At any given time there are over 6,500 Wisconsin children in out-of-home care placements. National data trends suggest that approximately half of these children will remain in out-of-home care for at least two years awaiting permanency. During this period, a child will experience, on average, three different placements. The act of removal from their home is a traumatic experience for these children, with profound emotional impacts. Research has established that ongoing instability in placement, beyond the initial removal, can serve to exacerbate the damage to social, emotional, and cognitive development. Placement instability has also been linked to physiological changes in the brain, especially among younger children and toddlers. These

changes inevitably manifest in ongoing negative stress reactions and lack of resiliency throughout a child's life. Placement stability is, therefore, a necessary component in allowing for a child to develop healthy secure relationships.

With these important issues in mind, the Director of State Courts Office, Children's Court Improvement Program created the comprehensive and collaborative Children's Court Initiative (CCI) project to assist the court system and those providing services to it in achieving safety, permanency, due process, and timeliness outcomes for children and families in child welfare proceedings. The CCI project has included a close partnership with the Wisconsin Department of Children and Families to conduct these reviews in conjunction with the Department's Continuous Quality Improvement program.

The CCI reviews, conducted throughout the state by CCIP staff, revealed a number of issues affecting placement stability for children involved in child in need of protection or services (CHIPS), juvenile in need of protection or services (JIPS), delinquency, and termination of parental rights (TPR) cases. Some of the prevalent concerns identified during the reviews and in consultation with stakeholders include:

- Confusion related to emergency in-home to out-of-home changes in placement after disposition, which has resulted in the unnecessary filing of duplicitous petitions and practices that negatively affect federal Title IV-E funding.
- Changes in placement frequently not complying with the statutory notice requirements.
- Dispositional orders inadvertently lapsing when an Order for Change in Placement is not drafted, resulting in a loss of jurisdiction over the child/juvenile.
- Delay in terminating the CHIPS dispositional order when the child is placed with the non-custodial parent because of the time it takes to revise an existing family court order to make it consistent with the new placement.
- Inconsistent practices being used for changes in placement that occur pre-disposition, under a consent decree, or post-TPR (for a child under the guardianship of an agency), as the statutes do not currently address these types of changes in placement.

Changes in placement occurring at certain stages of the case (i.e., pre-disposition, under a consent decree, and post-TPR) are being addressed by varying local court and agency policy and practice. Depending on the jurisdiction, a hearing may be held, a letter sent to the court for informational purposes, post-dispositional notice forms are used, or no notice is provided to the case participants. Hearings under this structure, if occurring, often lack sufficient information for the decision-making process and lead to undue delay by adjournment to obtain additional facts or provide appropriate notice regarding the change in placement. Furthermore, it prevents the court, guardian ad litem, and other parties from utilizing their resources and expertise before a change in placement occurs to prevent disruption to the child and to ensure that the child is in the most appropriate placement.

In 2011, the Children's Court Improvement Program and the Department of Children and Families began discussing strategies to address the issues described above and promote overall placement stability, which included pursuing legislative changes. Using early drafting instructions produced during this collaborative process as a starting point, this bill was developed by the Wisconsin Judicial Committee on Child Welfare ("Judicial Committee"), a committee of judges and court staff from around the state dedicated to improving outcomes for children and families in the court system. Input was also solicited from additional judicial officers, attorneys,

and child welfare professionals as well as multi-disciplinary child welfare stakeholders in the Wisconsin Commission on Children, Families and the Courts, Permanency Workgroup, Children and the Law Section of the State Bar, and the Wisconsin Counties Association.

The purpose of the bill is to create procedural guidance, due process protection, and transparency where the statutes are silent or lack clarity with regard to the above-identified areas of practice. The following goals and guiding principles were used to create the proposed statutory procedures:

- Improve placement stability and well-being for children in out-of-home care.
- Expedite permanency (reunification, guardianship, placement with a fit and willing relative, or adoption) for children in out-of-home care.
- Facilitate more informed decision-making regarding the child's placement.

The proposals outlined below add judicial oversight and promote more informed placement decision-making by facilitating input from case participants. Such changes encourage fiscal responsibility by creating a more efficient practice structure; reducing unnecessary filings and proceedings and conserving time and staffing resources. By creating a guided statutory framework, consistency of case outcomes will be improved and will assist children in achieving permanency in a timely fashion. Additionally, these procedures aim to reduce the number of changes in placement a child experiences during the life of a case and effectuate the most successful placement. Beyond the fiscal and legal impacts, the bill advances trauma-informed practices that can result in better overall well-being for the children and families of Wisconsin.

Venue

- Directs that venue for a change in placement, revision, or extension shall be in the county where the CHIPS, JIPS or delinquency dispositional order was issued unless venue has been transferred to another county.
- Provides that venue for a change in placement or transfer of guardianship that occurs post-TPR shall be in the county where the TPR order was issued.

Request and Objection Procedures (Post-Disposition)

- Requires the issuance of an order identifying the new placement when there is no objection to a notice of change in placement.
- Clarifies the 10-day timeframe for providing notice of a change in placement and filing an objection.
- Specifically lists the case participants who are entitled to receive notice of a Change in Placement Hearing and request a Change in Placement instead of referring to the parties or persons "bound by the dispositional order."

Child Subject to TPC Order

- Creates a procedure for changes in placement that occur pre-disposition while a child/juvenile is under a Temporary Physical Custody (TPC) Order in CHIPS, JIPS or delinquency cases.
- Authorizes a court commissioner to hear changes in placement that occur under a TPC Order.

Child Under Agency Guardianship Post-TPR

- Establishes procedures for changes in placement that occur after the parental rights of both parents have been terminated and before a child is adopted.
- Creates a procedure for the court to transfer guardianship of a child that was previously ordered as part of the TPR order because it may be in the child's best interest to remove the child from the home of a guardian.

Child Subject to Consent Decree

- Establishes a procedure for the parties to amend an existing consent decree in a CHIPS, JIPS, or delinquency case to change the child's/juvenile's placement or revise other terms of the consent decree.

Emergency Change in Placement; Child Placed in Own Home

- Establishes a procedure for emergency in-home to out-of-home changes in placement in a CHIPS, JIPS, or delinquency case.
- Authorizes a court commissioner to hear emergency in-home to out-of-home changes in placement.

Case Closure Orders

- Creates a new procedure in Chapters 48 and 938 to allow the juvenile court to enter an order for a child who is under a CHIPS, JIPS, or delinquency dispositional order and placed with a parent that would both (1) modify an existing or pending family court order (e.g., divorce or paternity) consistent with the CHIPS, JIPS, or delinquency order and (2) terminate the current juvenile court order.
- The juvenile court order may address legal custody, physical placement, visitation with others, child support, and health insurance in a manner consistent with Ch. 767 unless otherwise noted. A parenting plan, legal custody and physical placement studies, and mediation would not be required.
- Any subsequent modifications after the Case Closure Order is entered would need to be addressed by the family court and the normal procedures under Ch. 767 would apply, including the two year modification period.

Effective Period of TPC Order

- Adds statutory language that makes it clear that a Temporary Physical Custody (TPC) Order continues until a dispositional order or consent decree is entered, the petition is withdrawn or dismissed, or the TPC Order is modified or terminated by further order of the court.

Thank you for allowing us to testify today. We would be happy to take any questions.