

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

03hr_SC–JCP_Appt_pt00

Committee Hearings

03hr_SC–JCP_CH_pt00

Committee Reports

03hr_SC–JCP_CR_pt00

Clearinghouse Rules

03hr_SC–JCP_CRule_03–

Executive Sessions

03hr_SC–JCP_ES_pt00

Hearing Records

03hr_ab0526b

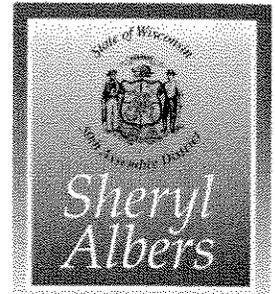
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Misc.

03hr_SC–JCP_Misc_pt00

Record of Committee Proceedings

03hr_SC–JCP_RCP_pt00



**2003 Assembly Bill 526 – Fee Waiver for Child Custody and Physical Placement
orders**

**Testimony of State Representative Sheryl K. Albers before the Senate Committee on
Judiciary, Corrections, and Privacy**

March 5, 2004

Thank you, Chairman Zien, for the opportunity to discuss AB 526, a bill that will make current law more consistent by creating a fee waiver for stipulated changes in child custody or physical placement arrangements.

Currently, filing fees are waived when parties stipulate to a revision in child or family support or maintenance. It is important that we encourage parties to work together in the best interests of their child. By eliminating filing fees for custody and placement, we can offer an incentive to do that, while also working to keep these matters from consuming time and resources in the legal system.

As you can see by the fiscal estimate, the projected effect of eliminating this fee is minimal, and the benefit derived from encouraging parents to work together on issues of custody and placement will certainly outweigh those costs. Anything we can do to promote the development of cooperative, as opposed to adversarial, relationships between parents, is a step I believe we should take. Additionally, eliminating these barriers improves legal access for those who are indigent. Cost is always an issue when it comes to legal access, but this cost falls hardest on those who have the least.

Furthermore, the fiscal estimate cannot take into account the money saved by taxpayers when matters of this nature do not have to be litigated. Our courts are already overburdened, and by encouraging more people to reach agreements, we reduce the amount of time these cases take.

This change also makes our policies regarding filing fees more consistent. We already provide an exemption for a number of activities related to child support. I see no reason why we should not logically extend this exemption to child custody and placement.

It has been a pleasure to work with the Family Law Section of the State Bar of Wisconsin on this issue. AB 526 passed out of the Assembly Committee on Corrections in the Courts on a 9-1 vote and was approved by voice vote in the Assembly. I am hopeful the bill will be met with an equally positive response in your house.

Thank you again for the opportunity to testify.



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MEMORANDUM

To: Members, Senate Committee on Judiciary, Corrections and Privacy
From: Family Law Section
Date: March 5, 2004
Re: **Support** for Assembly Bill 526, waiving filing fees for stipulated revisions to orders for legal custody or physical placement.

Background

The Family Law Section of the State Bar of Wisconsin represents about 1300 attorneys who devote all or much of their practice to family law matters.

The Family Law Section **supports** Assembly Bill 526, which provides that no filing fee is required for filing a petition, motion or order to show cause to revise a judgment or order for legal custody or physical placement if both parties have stipulated (i.e., voluntarily agreed) to the revision.

A similar statutory waiver of filing fees currently exists for stipulated revisions to child support, family support, or maintenance. This bill would provide parity for stipulated revisions to legal custody or physical placement.

Rationale

The Family Law Section of the State Bar of Wisconsin is pleased that Representative Sheryl Albers requested its assistance in drafting Assembly Bill 526. We believe it is good public policy to extend the waiver to stipulated changes in custody and placement for the following reasons:

- 1) This change will encourage parties to work together, cooperatively, toward voluntary agreements.
- 2) This change will make our laws more consistent... in that no filing fee is currently required if the parties stipulate to revisions in child support, family support or maintenance (monetary issues). The same principle should hold for stipulated revisions to legal custody or physical placement (issues affecting children directly).

State Bar of Wisconsin

5302 Eastpark Blvd. ♦ P.O. Box 7158 ♦ Madison, WI 53707-7158
(800) 728-7788 ♦ (608) 257-3838 ♦ Fax (608) 257-5502 ♦ Internet: www.wisbar.org ♦ Email: service@wisbar.org

- 3) The Family Law Section can find no policy reason why fees should be waived for one kind of a stipulation but charged for the other, especially when and the fee provisions are contained in the same subsection of the statutes and the wording of the two provisions is otherwise so similar.
- 4) This change will also help provide better legal access to the low-income and indigent families without dramatically affecting court budgets that are already tight.
- 5) Many parties in family law cases are appearing *pro se*, meaning they are representing themselves. Often this is because they cannot afford a lawyer. There is little reason to make these parties pay the additional cost of a filing fee when they are coming to the court to ask the court to approve an arrangement they have worked out on their own.

When Representative Albers contacted the Family Law Section to see if we would be supportive of this bill, our initial response was that we would support the bill because it is good policy; however, we were concerned about the potential fiscal impact of the bill.

The Family Law Section contacted Michael Bruch, Milwaukee County Family Court Commissioner, in November 2002, to try to determine the fiscal impact of such a proposal on the state's most populous county. The Milwaukee County Family Court Commissioners' Office agreed to a sampling of filings over a two week period. It found that of the 38 modifications to custody and placement filed during that span, only 3 were stipulated. As a result of this admittedly small sample, the Family Law Section concluded that allowing a fee waiver for modifications to custody and placement where both parents stipulate will have a relatively minor fiscal impact on Milwaukee County and other counties.

Some may argue that this proposal will further erode court funding at a time when it is already precarious. They may argue that although the filing fee would be waived under the bill, judges and court commissioners will still spend time reviewing petitions or motions that are stipulated, that these are not automatically signed off on (i.e., they are not "rubber stamped" by any means) and that the time judges and court commissioners take to review these ought to be reflected in the filing fee.

The Family Law Section is persuaded that these costs are likely to minimal and that the benefits of creating an incentive to encourage parties to voluntarily agree to changes in legal custody and physical placement of their children outweighs the costs involved in reviewing these stipulated changes.

The Family Law Section is convinced that if the fee waiver would encourage more stipulations it would be a good thing because it actually costs many counties more than the \$50 amount of the filing fee if a matter goes to a hearing. The Family Law Section believes the bill is good public policy and supports its passage.

If you have any questions, please feel free to contact Dan Rossmiller, Public Affairs Director of the State Bar of Wisconsin, at (608) 250-6140.



STATE SENATOR DAVE ZIEN

ASSISTANT MAJORITY LEADER

CHAIRPERSON
 COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY
 VICE CHAIRPERSON
 COMMITTEE ON HOMELAND SECURITY, VETERANS AND MILITARY AFFAIRS AND GOVERNMENT REFORM
 MEMBER
 COMMITTEE ON SENATE ORGANIZATION
 COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
 COMMITTEE ON LABOR, SMALL BUSINESS DEVELOPMENT AND CONSUMER AFFAIRS
 SENTENCING COMMISSION
 COUNCIL ON TOURISM
 JUDICIAL COUNCIL

AB 526

MEMORANDUM

TO: Senator Cathy Stepp, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: March 5, 2004 (hand delivered 2:00pm)

RE: Paper Ballot (3 pages)

Please consider the following items and vote on the motions below. Return this ballot to Senator Dave Zien, Room 15 South, no later than 3:00pm today, March 5, 2004. Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 496

Relating to: use of settlement moneys received by the state for environmental violations for youth education programs regarding natural resources and granting rule-making authority.

By Senators Stepp, Welch, Erpenbach, Plale, Zien, S. Fitzgerald, Schultz and M. Meyer; cosponsored by Representatives Suder and Kreuser.

- Moved by Senator Zien that SENATE BILL 496 be recommended for PASSAGE:

Aye No

Senate Bill 518

Relating to: grants to counties for providing alternatives to prosecution and incarceration for persons who abuse alcohol or other drugs and making an appropriation.

By Senators Roessler, Zien, Darling, S. Fitzgerald, Moore and Lassa; cosponsored by Representatives Bies, Friske, Gunderson, Jeskewitz, Taylor, Pocan, Miller, Staskunas, Black and Nischke.

- Moved by Senator Zien that SUBSTITUTE AMENDMENT LRBs0424/1 be recommended for INTRODUCTION AND ADOPTION:



Aye No

- Moved by Senator Zien that SENATE BILL 518 be recommended for PASSAGE AS AMENDED:

Aye No

Assembly Bill 402

An Act to amend 938.185 (1) (intro.) and 938.255 (2); and to create 938.02 (12m), 938.02 (15c), 938.02 (18g), 938.185 (4), 938.24 (2r), 938.25 (2g), 938.255 (1) (cr), 938.299 (9) and 938.315 (1) (i) of the statutes; relating to: proceedings involving an American Indian juvenile who is alleged to have committed a delinquent act while physically outside the boundaries of a reservation and off-reservation trust land because of certain tribal court orders. (FE)

Introduced by Joint Legislative Council.

This committee voted on the companion bill, SB 193, on January 8, 2004. (The vote was 5-0.)

Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 402 be recommended for CONCURRENCE:

Aye No

Assembly Bill 526

Relating to: waiver of filing fee if parties stipulate to certain revisions of judgment or order.

By Representatives Albers, Musser, Bies, Hahn, McCormick, F. Lasee, J. Lehman, Seratti and Staskunas; cosponsored by Senators Roessler, A. Lasee and Lassa.

Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 526 be recommended for CONCURRENCE:

Aye No

Assembly Bill 709

Relating to: the confidentiality of pupil records and the exchange of information between a pupil's school, the juvenile justice system, and law enforcement agencies.

By Representatives Hundertmark, Kreibich, Suder, Olsen, Hahn, Jeskewitz, M. Lehman, Musser, Townsend, Ladwig, Ainsworth, Bies, Lothian, LeMahieu, Hines, Seratti, Van Roy, Owens, Krawczyk, Ott and Albers; cosponsored by Senator Roessler.

Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 709 be recommended for CONCURRENCE:

Aye No

Moore, James E.

Of Kaukauna, as a member of the Prison Industries Board, to serve for the term ending May 1, 2004.

- Moved by Senator Zien that JAMES E. MOORE be recommended for CONFIRMATION:

Aye No

Odom, Corey F.

Of Milwaukee, as a member of the Prison Industries Board, to serve for the term ending May 1, 2006.

- Moved by Senator Zien that COREY F. ODOM be recommended for CONFIRMATION:

Aye No

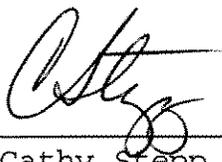
Smith, Bill G.

Of Madison, as a member of the Prison Industries Board, to serve for the term ending May 1, 2007.

- Moved by Senator Zien that BILL G. SMITH be recommended for CONFIRMATION:

Aye No

Signature _____


Senator Cathy Stepp



STATE SENATOR DAVE ZIEN

ASSISTANT MAJORITY LEADER

CHAIRPERSON
 COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY
 VICE CHAIRPERSON
 COMMITTEE ON HOMELAND SECURITY, VETERANS AND MILITARY AFFAIRS AND GOVERNMENT REFORM
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 COMMITTEE ON LABOR, SMALL BUSINESS DEVELOPMENT AND CONSUMER AFFAIRS
 SENTENCING COMMISSION
 COUNCIL ON TOURISM
 JUDICIAL COUNCIL

MEMORANDUM

TO: Senator Scott Fitzgerald, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: March 5, 2004 (hand delivered 2:00pm)

RE: Paper Ballot (3 pages)

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Relating to: use of settlement moneys received by the state for environmental violations for youth education programs regarding natural resources and granting rule-making authority.

By Senators Stepp, Welch, Erpenbach, Plale, Zien, S. Fitzgerald, Schultz and M. Meyer; cosponsored by Representatives Suder and Kreuser.

- Moved by Senator Zien that SENATE BILL 496 be recommended for PASSAGE:

Aye X No

Senate Bill 518

Relating to: grants to counties for providing alternatives to prosecution and incarceration for persons who abuse alcohol or other drugs and making an appropriation.

By Senators Roessler, Zien, Darling, S. Fitzgerald, Moore and Lassa; cosponsored by Representatives Bies, Friske, Gunderson, Jeskewitz, Taylor, Pocan, Miller, Staskunas, Black and Nischke.

- Moved by Senator Zien that SUBSTITUTE AMENDMENT LRBs0424/1 be recommended for INTRODUCTION AND ADOPTION:



Aye X No _____

- Moved by Senator Zien that SENATE BILL 518 be recommended for PASSAGE AS AMENDED:

Aye X No _____

Assembly Bill 402

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This committee voted on the companion bill, SB 193, on January 8, 2004. (The vote was 5-0.)

Please consider the following motion:

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Aye X No _____

Assembly Bill 526

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Please consider the following motion:

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Aye X No _____

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By Representatives Hundertmark, Kreibich, Suder, Olsen, Hahn, Jeskewitz, M. Lehman, Musser, Townsend, Ladwig, Ainsworth, Bies, Lothian, LeMahieu, Hines, Seratti, Van Roy, Owens, Krawczyk, Ott and Albers; cosponsored by Senator Roessler.

Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 709 be recommended for CONCURRENCE:

Aye X No _____

Moore, James E.

Of Kaukauna, as a member of the Prison Industries Board, to serve for the term ending May 1, 2004.

- Moved by Senator Zien that JAMES E. MOORE be recommended for CONFIRMATION:

Aye X No _____

Odom, Corey F.

Of Milwaukee, as a member of the Prison Industries Board, to serve for the term ending May 1, 2006.

- Moved by Senator Zien that COREY F. ODOM be recommended for CONFIRMATION:

Aye X No _____

Smith, Bill G.

Of Madison, as a member of the Prison Industries Board, to serve for the term ending May 1, 2007.

- Moved by Senator Zien that BILL G. SMITH be recommended for CONFIRMATION:

Aye X No _____

Signature



Senator Scott Fitzgerald



STATE SENATOR DAVE ZIEN

ASSISTANT MAJORITY LEADER

CHAIRPERSON
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MEMORANDUM

TO: Senator Tim Carpenter, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

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Aye No

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Relating to: grants to counties for providing alternatives to prosecution and incarceration for persons who abuse alcohol or other drugs and making an appropriation.

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- Moved by Senator Zien that SUBSTITUTE AMENDMENT LRBS0424/1 be recommended for INTRODUCTION AND ADOPTION:



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Please consider the following motion:

- Moved by Senator Zien that ASSEMBLY BILL 709 be recommended for CONCURRENCE:

Aye No

Moore, James E.

Of Kaukauna, as a member of the Prison Industries Board, to serve for the term ending May 1, 2004.

- Moved by Senator Zien that JAMES E. MOORE be recommended for CONFIRMATION:

Aye No

Odom, Corey F.

Of Milwaukee, as a member of the Prison Industries Board, to serve for the term ending May 1, 2006.

- Moved by Senator Zien that COREY F. ODOM be recommended for CONFIRMATION:

Aye No

Smith, Bill G.

Of Madison, as a member of the Prison Industries Board, to serve for the term ending May 1, 2007.

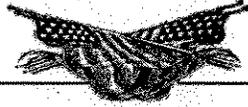
- Moved by Senator Zien that BILL G. SMITH be recommended for CONFIRMATION:

Aye No

Signature



Senator Tim Carpenter



STATE SENATOR DAVE ZIEN

ASSISTANT MAJORITY LEADER

CHAIRPERSON
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 JUDICIAL COUNCIL

MEMORANDUM

TO: Senator G. Spencer Coggs, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

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Aye _____ No _____

Senate Bill 518

Relating to: grants to counties for providing alternatives to prosecution and incarceration for persons who abuse alcohol or other drugs and making an appropriation.

By Senators Roessler, Zien, Darling, S. Fitzgerald, Moore and Lassa; cosponsored by Representatives Bies, Friske, Gunderson, Jeskewitz, Taylor, Pohan, Miller, Staskunas, Black and Nischke.

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Aye No

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Aye No

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Introduced by Joint Legislative Council.

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Please consider the following motion:

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Aye No

Assembly Bill 526

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By Representatives Albers, Musser, Bies, Hahn, McCormick, F. Lasee, J. Lehman, Seratti and Staskunas; cosponsored by Senators Roessler, A. Lasee and Lassa.

Please consider the following motion:

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Aye No

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Please consider the following motion:

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Aye _____ No _____

Moore, James E.

Of Kaukauna, as a member of the Prison Industries Board, to serve for the term ending May 1, 2004.

- Moved by Senator Zien that JAMES E. MOORE be recommended for CONFIRMATION:

Aye _____ No _____

Odom, Corey F.

Of Milwaukee, as a member of the Prison Industries Board, to serve for the term ending May 1, 2006.

- Moved by Senator Zien that COREY F. ODOM be recommended for CONFIRMATION:

Aye _____ No _____

Smith, Bill G.

Of Madison, as a member of the Prison Industries Board, to serve for the term ending May 1, 2007.

- Moved by Senator Zien that BILL G. SMITH be recommended for CONFIRMATION:

Aye _____ No _____

Signature _____

Senator G. Spencer Coggs