

2005 DRAFTING REQUEST

Senate Amendment (SA-AB311)

Received: **01/27/2006**

Received By: **pkahler**

Wanted: **Soon**

Identical to LRB:

For: **Carol Roessler (608) 266-5300**

By/Representing: **Jennifer Stegall**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Dom. Rel. - cust./plac./vis.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Roessler@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Rebuttable presumption based on domestic abuse

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

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FE Sent For:

<END>

Kahler, Pam

From: Stegall, Jennifer
Sent: Friday, January 27, 2006 1:51 PM
To: Kahler, Pam
Subject: Amendment to AB 311

Attachments: Stegall, Jennifer.vcf; 1-26-06 AB 311 Seger Testimony.pdf

Hi Pam,

Senator Roessler would like an amendment drafted to AB 311. I have attached a memo from the WI. Coalition Against Domestic Violence which explains the amendment. The second page includes suggested language.

The Senate Health Committee is meeting to exec. on AB 311 on 2-8. Would be great if we could have the amendment by the end of next week.

Thanks,

Jennifer Stegall

Office of Senator Carol Roessler

608-266-5300/1-888-736-8720

Jennifer.Stegall@legis.state.wi.us



Stegall,
Jennifer.vcf (4 KB)



1-26-06 AB 311
Seger Testimony...

MEMORANDUM

December 13, 2005

TO: Members of Senate Committee on Health

FROM: Patti Seger, Executive Director, Wisconsin Coalition Against Domestic Violence

RE: In Opposition to Assembly Bill 311

Thank you for the opportunity to provide testimony today on AB 311 on behalf of the Wisconsin Coalition Against Domestic Violence. The Wisconsin Coalition Against Domestic Violence (WCADV) is a statewide membership organization of battered women, formerly battered women, domestic abuse programs and individuals committed to ending domestic violence. A substantial charge of our organization is to advocate for families and children.

Unless amended, I am here to oppose Assembly Bill (AB) 311, a bill that authorizes a court, when determining legal custody or physical placement, to take into account events that are likely to occur in the future or temporary current conditions that affect a party's ability to perform parental duties or to care for the child. In a legal custody or physical placement order, the court may provide for future modifications to, or retain the option to modify at a future time, legal custody or physical placement upon the occurrence of a specified future event or a specified change in current conditions.

While we understand that there are circumstances that occur that may be appropriate for this kind of relief, cases involving domestic violence or abuse of children should fall outside of the scope of this law. In 2004, Wisconsin passed 2003 Act 130, a law that recognized the serious danger posed to adults and children by domestic violence and created a presumption against awarding joint custody and issues requirements for the safety of the children during periods of placement when there is evidence of domestic violence. A battering parent can overcome the presumption by participating in and completing a certified batterers treatment program. Under this legislation, the court may consider that an individual has entered into such a program and may, in anticipation that the program would be completed at some future date, enter an order that would automatically modifying custody and placement at the time of the future date. There would be no requirement that the individual actually prove completion of the program. We believe this creates a serious loophole in this proposed legislation. We suggest that the bill be amended to specifically exclude cases of domestic violence or cases in which there is an identified danger to the child(ren). I have attached a suggested amendment for your consideration.

Thank you for your time and consideration of my remarks.



307 S. Paterson Street, Suite 1, Madison, WI 53703 Phone: 608/255-0539 Fax: 608/255-3560

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

SECTION 1. 767.24 (5m) of the statutes is created to read:

767.24 (5m) MODIFICATION CONTINGENT UPON FUTURE EVENT OR CHANGE IN

CONDITIONS. (a) In making an order of legal custody under sub. (2) or (3) or periods of physical placement under sub. (4), the court may take into account events that are likely to occur in the future or temporary current conditions that affect the ability of one or both parties to make decisions in the best interest of the child or to perform parental duties and responsibilities or care for the child and may provide for future modifications to, or retain the option to modify at a future time, contingent upon the occurrence of a specified future event or a specified change in temporary current conditions, any of the following:

1. Legal custody.
2. Periods of physical placement.
3. The authority to make major or other specified decisions.

(b) Modifications to legal custody or periods of physical placement under this subsection are not subject to s. 767.325.

Amend the bill as follows:

(c) is created to read:

(c) This subsection does not apply if a rebuttable presumption exists under s. 767.24 (2) (d) and the presumption has not been rebutted under that section.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2197/5

PJK: ↑:....

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2005 ASSEMBLY BILL 311

Wsd.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 3: delete "In" and substitute "Except as provided in par. (c), in".

3 2. Page 2, line 15: after that line insert:

4 "(c) Paragraph (a) does not apply if a presumption under sub. (2) (d) 1. exists

5 and it has not been rebutted as provided in sub. (2) (d) 1. a. and b.".

6

(END)