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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Judiciary, Corrections and Privacy...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
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INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
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- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
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- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (July 2012)

no date

SB 586- Equalizing Placement Bill

My name is Pete Anderson, and I am testifying in favor of SB 586, the bill equalizing placement in child custody cases. I teach in the Life Sciences at the University of Wisconsin- Madison. This bill helps secure two great goods for children in Wisconsin: it helps ensure the continued involvement of both parents in their children's lives after divorce, and it helps to greatly reduce the amount of conflict in divorce and custody cases.

Anything that reduces conflict in divorce and custody cases is really good for children. This bill helps do that. It replaces an ambiguous, indefinable standard that inevitably spurs conflict, the child's best interest, with an objective, pragmatic one: equalizing placement. The child's best interest is a definition immediately subject to dispute. Equal placement is not.

Dispute brings conflict, and minimizing conflict is vital. Conflict in custody cases destroys whatever goodwill remains or might be regained. Under the current system, extreme positions, intractability, and false allegations are often rewarded in a futile attempt to reduce conflict by giving authority and placement to one party. When the default position is subject to dispute, and you have a winner take all system, you will have conflict. Kids need both parents.

This bill is a great improvement over the current system because the current highly subjective standard encourages conflict and immediately makes any custody case into a highly adversarial proceeding. One parent is forced to advocate against the other. It places incentives on not cooperating.

By presuming equal placement in so far as possible as the default position, and by requiring parenting plans from each parent, we provide incentives for parents to resolve their differences and work together. There are fewer incentives for strife. And any time you can reduce the amount of strife, you reduce legal bills, and far more important, you preserve some chance the parents can work together. Conflict always comes down directly on the heads of the children, either by increasing the level of stress on the children or even by the exclusion of a parent. None of this is good for kids.

In my own case, primary placement for my ex-wife did not reduce conflict. Unless one parent has absolutely no placement, there can still be friction over schedules, transitions, and decision-making, and we had that in our case. I returned to court in order to ask for equal placement, and, I'd like to point out, I was not motivated by a desire to avoid child support, since I was not paying any. Despite a recommendation for equal placement from the GAL, and despite no allegations of abuse, neglect, or incompetence, it took three years time and a year and a half of my salary to get it. Worse, it left a lasting legacy of conflict, with serious effects on my children. Minimizing conflict can only reduce the residue of bitterness for children.

Thank you for listening. I urge you to support SB 586.


FORWARD
E PLURIBUS UNUM

no date

Dear Representative,

~~I am sorry I will miss the hearing~~ pertaining to ~~AB-897. I wanted to speak and voice~~ my ~~opinion, but now all I can do is quickly write you this letter.~~ I would be more than happy to discuss this in person at a later date if I was given the opportunity.

March 30, 2001 is a day I will never forget for the rest of my life. I went in front of the Family Court Commissioner for our first divorce hearing. The hearing was to set to decide placement of my two children, then 2 and 7, and child support payments until our case went to the Circuit Court. My wife told me she had to ask for more placement of the children so she could get more money out of me. I was scared to death. Not to pay support, but not being able to see my children 50/50. The hearing took place on a Friday at 3:00 p.m.. When it was done I was ordered to pay $1600.00 in Family Support, leave my house by Monday and I only receive about 25% placement of my children. I pleaded with the commissioner to take whatever money they wanted, but please don't take my children. After the hearing I walked out on the Courthouse steps, stopped and wondered what had just happened. It felt like my life had ended.

I knew I had to go home and tell my 7 year old son that Dad would be leaving. We sat on the couch together and I explained to him I had to go. He started crying and I did to. He asked why I had to go and not Mom. He saw through the years how she physically and verbally attacked me, but I was the one who had to go. I'm very close with my children and this was devastating for them. The placement schedule the Commissioner ordered went against every law you have passed. It was not reoccurring, it was not predictable and it did not promote equal placement of both parents.

A Guardian of Litem (GAL) was assigned and Family Court Services did their placement study. They stated my wife was a very angry person and had a troubled relationship with our son. They stated I was a good father and level heading. They recommended 50/50 joint custody and placement, but stated that one night a week my daughter should stay with her mother and my son with me. They stated that way my daughter could get special nurturing from her mother and the bond with my son and I could remain intact. Two months after their recommendations I found large bruises on my daughter that resembled a hand print. I immediately notified the GAL and Family Court Services. They did nothing. It wasn't until about two months later when I actually showed them a picture of the bruises they called Social Services. Social Services recommended my wife get a Psychological Evaluation because she could pose a danger to my children and herself. My wife and her attorney agreed, but never followed threw.

At no time did the GAL or Family Court Services ever notify the court of any of this.

At the time of trial neither my attorney or the GAL were ready to proceed. Before the trial started, my attorney told me the GAL wanted to talk to me. I talked with her and she stated that if I didn't go with my wife's placement schedule, she would tell the judge to give my wife full custody of my children. I stated I don't take threats. I advised my attorney that I wanted him to advise the court of the GAL threat. He didn't, because he admitted later he was in on it. He stated he thought I would cave in.

The trial started and my attorney didn't even bring the file so he quickly asked the judge if we could take a recess to try negotiations. We tried and tried, but my wife was not willing to have a rotating weekend schedule with the children. I was heavy handed by my attorney and the GAL into excepting my wife's placement schedule. The GAL left early

into the negotiations. I had numerous questions that only the GAL could answer, but she was no where to be found. Thirty minutes after the papers were signed by all the parties my wife refused to give me my children. I contacted my attorney and he stated to find the GAL and let her know. I called the GAL and left messages, but she never responded. I advised her not to sign the agreement until she talked with me because my wife had already broke the agreement. The GAL never returned my calls and signed the agreement. I went back to the court house knowing that if the judge signed off on the failed agreement I would have to live with it. I stood outside the judges office and called my attorney and stated that I wanted my day in court and to call the judge and tell him not to sign the agreement. He didn't want to, but I advised him that if he didn't I was prepared to personally tell the judge not to.

We finally had a custody and placement trial, but the GAL had now turned on me because I wouldn't submit to her demands. At trial she made it sound like it was my fault the agreement had failed. After hearing this the judge hammered me. He went against the 50/50 joint custody and placement and set a placement schedule where my then ex-wife would have the children every Monday and Tuesday and I would have them every Wednesday and Thursday. The weekends varied because the court made a placement schedule that accommodated my ex-wife's part-time work schedule. So it consisted of six weekends. I would have them weekend #1, she would have them weekend #2, then I would have them on weekend #3 and #4 and she would have them on weekend #5 and #6. On my third weekend the judge made me have the children back to her by noon on Sunday. The judge went against all recommendations by Family Court Services and the GAL. To add insult to injury the judge gave my ex-wife Impasse Decision Making Authority. Meaning I had no say into any decisions regarding my children. Remember, my wife was the one who beat my daughter and was asked to get a Psychological Evaluation, but Family Court Services and the GAL never advised the court.

About a year after the trial my ex-wife quit her part-time Funeral Director job because the Court of Appeals reversed 3/4 of the financial issues set by the same Circuit Court Judge. I never appealed custody and placement because the law gives the judge to much latitude to make whatever decision they want concerning custody and placement. So the placement schedule the court set based on my ex-wife's part-time employment still remains even though she doesn't work. I now again have to spend thousands to get 50/50 placement and custody of my children and I am asking for a week on week off placement schedule that is reoccurring and predictable for my children. My children are now 6 and 11. They still have to ask what weekend they are with me. That's goes against the law of having a placement schedule predictable for the children.

For the last 18 years I have been a Deputy with the United States Marshals Service. Through work I have been in hundreds of Federal and State Courts. I have never seen such a gross misuse of power then what the Circuit Court Judge did to me and my children. I also found first hand that Family Court Services in no way shape or form do what is best for the children. They are still very gender bias. I have also found first hand that the appointment of a GAL is a sheer waste of money and is nothing less than an easy money maker for divorce attorneys. I have to ask, would you feel comfortable letting Family Court Services and an attorney decide the fate of your children? If the answer is no, then please pass AB-897. You can't give judges wiggle room to interpret the law you

pass. It has to be very specific. I have found in ready case law the Court of Appeals likes to try to interpret the law also regarding maximizing placement. They like to put the blame on legislatures for not being more specific. I think the term maximizing placement is pretty specific, but it isn't for judges.

My children and I have been through hell and I have spent tens of thousands of dollars fighting to get 50/50 placement and custody. I have to go through the same gender bias process of before. Why. Why should a fit parent like myself have to go through this. The money I have spent to fight the clear gender bias is astronomical. Why. Because that's what attorneys want. If the law was specific, their revenue would be cut in half. They don't want that.

Please pass AB-897 so families don't have to endure the pain and financial devastation I have and continue to face. Please don't hesitate to call me if you have any questions and again I welcome the chance to discuss this in person with you. Thank you for your time.

John Donahue
208 Molly Lane
Cottage Grove, WI 53527
608-209-2612


FORWARD
E PLURIBUS UNUM

no date

AB 897

In 1997 when my twin children were 6 years old my wife decided over night to destroy our marriage and our family, she also decided that our children needed no Father or a complete family any longer. We were living in a very nice home in the country. My children are now living in a trailer court. For the next 20 months I would sometimes see my children 2 or 3 hrs every 2 or 3 months. I would also go for up to 6 or more months without seeing them. The final hearing was in July 1999. Because of the job that I had I only had off of work one weekend a month. Judge Grimm in Fond du Lac Co. ordered that I have my children on that weekend and during the summer on a night or 2 when I was not working. This worked for aprox. a year until my wife found out that if she files a petition or motion with the court that I will not be able to see my children until after the hearing, which sometimes took as long as 7 or 8 months to have. She had a very good lawyer that could get these hearings postponed.

After $15,000 paid to my lawyer and 4 ½ years. of being in court continually, my lawyer resigned from my case, because she could no longer handle the pressure of my case. This happened about a month before I had another case coming up (during this time before the hearing I could not see my children for 7 months until the hearing) My wife decided that I was seeing my children too much (one weekend a month). She wanted it reduced to 3 hrs a month. I had to go to court without an attorney. Judge Grimm did not go along with her only allowing me to see my children 3 hrs

every month, he very generously ordered that I see my children 6 hours every other Sunday.

This made me an EVERY OTHER SUNDAY AFTERNOON FATHER IN THE PARK, and nothing more than A PAYING VISITOR.

When my family was together we would always go camping and fishing. When my son was 6 yours old he could bait a fishing hook, he could put a worm on the hook. Last fall (my children are now 14 yours old) was the first opportunity that I had to take my children fishing in yours my son at 14 yours old had no idea how to bait a fishing hook. When my son has a flat tire on his bicycle he has to take the bike to a bike shop to have the flat fixed. He has no father in his life to teach him to do things for him self. Just simple things like fixing a flat tire on a bicycle and to fish.

When my children were younger they were cared for by my wife's cousin or sister after school or when she would go out at night. I was never given the opportunity to take care of them.

Now my son has a friend whose parents also are not together. Every other weekend this boy goes to be with his father and my son also spends the weekend with this man. I have no idea if my wife even knows this person. There is a stranger raising my son.

In 1998 or 1999 there was an article in the Sentinel Journal news paper about how then Gov. Thomson declared WI a FATHER FRIENDLY STATE. I did write to him asking when this would begin. I did not receive

a reply, and I sure have not seen anything father friendly about this state. All that I have seen is state approved child abuse.

There are some state statutes favorable to fathers however the court commissioners and judges ignore them. As far as I have seen all that the court system and the state cares about is to make sure that child support is being paid. I have seen no caring at all what is in the best interest of the children.

Every time that I see my two children six hrs every other Sunday they both tell me that they miss me, it is a shame that children have to say this to their father.

The courts also call it VISITATION when we spend time with our children, visitation is what a person does at a funeral home.

Why are we here today? It is because this is the way that it has always been, since day one. I'm sure that you have all heard this same story in the past. From friends, acquaintances, relatives, or maybe some of you have experienced this nightmare.

It is beginning to get too late for me and my children as they are close to 15 years old. However maybe we can make a difference for other children and their fathers

At the final hearing, when Judge Grimm completely disregarded state statute 767.12(2) (b) 2. (see attachment) a law, my innocent children were turned into nothing more than my wifes possessions.

I am asking that you all think and vote for this with your hearts. A fathers love for his children is not every now and then, a fathers love for his children is a love without end.

Please don't drag your feet on this, get it voted on soon. Thank you for your time

John C. Kruck
242 Superior St.
Fond du Lac, WI 54935

UNOFFICIAL TEXT
Chapter 767
767.12

767.12

767.12 Trial procedure.

767.12(1)

(1) Proceedings. In actions affecting the family, all hearings and trials to determine whether judgment shall be granted, except hearings under s. 757.69 (1) (p) 3., shall be before the court. The testimony shall be taken by the reporter and shall be written out and filed with the record if so ordered by the court. Custody proceedings shall receive priority in being set for hearing.

767.12(2)

(2) Irretrievable breakdown.

767.12(2)(a)

(a) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or if the parties have voluntarily lived apart continuously for 12 months or more immediately prior to commencement of the action and one party has so stated, the court, after hearing, shall make a finding that the marriage is irretrievably broken.

[redacted]

(b) If the parties have not voluntarily lived apart for at least 12 months immediately prior to commencement of the action and if only one party has stated under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to filing the petition and the prospect of reconciliation.

767.12(2)(b)1.

1. If the court finds no reasonable prospect of reconciliation, it shall make a finding that the marriage is irretrievably broken; or

[redacted].

2. If the court finds that there is a reasonable prospect of reconciliation, it shall continue the matter for further hearing not fewer than 30 nor more than 60 days later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. The court, at the request of either party or on its own motion, may order counseling. At the adjourned hearing, if either party states under oath or affirmation that the marriage is irretrievably broken, the court shall make a finding whether the marriage is irretrievably broken.

767.12(3)

(3) Breakdown of marital relationship. If both of the parties by petition or otherwise have stated under oath or affirmation that the marital relationship is broken, the court, after hearing, shall make a finding that the marital relationship is broken.

767.12 - ANNOT.

History: *Sup. Ct. Order, 67 Wis. 2d 585, 756 (1975); 1977 c. 105; 1979 c. 32 s. 50; 1979 c. 352 s. 39; Stats. 1979 s. 767.12; 1983 a. 436; 1989 a. 132; 2001 a. 61.*

767.12 - ANNOT.


FORWARD
E PLURIBUS UNUM

no date

HEARING TESTIMONY-- AB 897 -- EQUAL PLACEMENT

Good morning, Madame Chairwoman and Members of the Committee.

I am here to ask you to support the Equal Placement Bill - AB 897. I personally believe that it is very important that children have equal access to both of their parents, unless there is some proven abuse towards the children. In most cases, fathers who are denied 50% access to their children are not abusers of either the children or the mothers of their children. Most are decent men who are strongly attached to their own children and deserve to have a say in their upbringing.

My personal situation is that I am a very independent woman who considers myself a feminist in that I believe that men and women should be equal. What I have seen happen with the man who is my domestic partner is that he has been treated as less than equal. He has never harmed anyone but through a combination of lies and the judicial system has been alienated from two of his children.

Also he has a severely disabled son. He is only allowed to see his son for a very limited amount of time and then with supervision from the nurse. He has no right to determine his son's medical care or social care. I always accompany him on his visits because he is afraid of false allegations and charges when he is there, so I act as a witness. What I see is an 18 year old child in a wheel chair who can't see, talk, walk or eat. While my partner was married and allowed to participate in his son's care, the boy went to many different specialists and was socialized outside of the home in groups of children where he could receive physical affection. Also he had music therapy--all of which added to the quality of his life.

Now he has round-the-clock nursing care (they are very nice) but he is just basically being maintained. When we come he is usually in front of a television set which doesn't make a lot of sense, since he can't see.

My partner is not allowed to ask questions of the nurses, but I do and have found out that he basically has no social life outside of his apartment and that he is just basically being maintained. If my partner had equal custody of his son, he would try anything possible to improve his son's health as well as make his son's life more enjoyable.

So Madame Chairwoman and Committee Members I ask you to support the Equal Placement Bill, AB 897.

Thank you very much for allowing me to speak.

Alfreda Kubala
2863 2nd Drive
Oxford, Wisconsin 53952
608-584-6508


FORWARD
E PLURIBUS UNUM

no date

Mike Landwehr
1655 Valley Forge Ct.
Brookfield, WI 53045
414-587-6631 (cell)

Good afternoon. My name is Mike Landwehr, and I am from Brookfield. Thank you for giving me the opportunity to testify before this committee today.

My purpose here is to ask for your support of AB-897, the **Equalizing Physical Placement** bill.

I believe that it is appropriate for me to be giving this testimony because my two daughters and I have been subjected to the inadequacies of the current law and its interpretation by the courts. Our situation is one that began shortly after my divorce in 2000, and has brought us all the way to the Wisconsin Supreme Court, where the case was heard last December.

In my situation, as it is in most, the point of divorce was a period of tremendous upheaval in the way my family managed our time. At that time, my job required me travel out of state extensively during the work week. Further, the financial issues associated with splitting a household into two necessitated me to hold onto that good-paying job. Given these constraints, I felt at that time that the best course of action was to stipulate to a placement schedule which gave me about 29% of the overnights with my girls, plus one evening during the week. My attorney advised me that I would not be allowed to change the schedule (without dire circumstances) for a period of two years. I was alright with that because:

- I knew I needed time to adjust my career such that I would be home more.
- My girls were very young (7 and 3) at the time and were accustomed to being with their mother more than with me. The family had been through enough trauma with the divorce and I was trying to ensure what stability I could.
- I was living in an apartment in Milwaukee where the girls had to sleep on a sofa bed. I knew I had to save for a down-payment and purchase a home, preferably in Brookfield, near their school.

So, during those first two years I addressed the issues I just mentioned by:

- Starting my own business, which enabled me to be home every night, and provided me flexibility during the day to be involved with the girls' activities.
- I purchased a home less than five minutes from their school and ten minutes from their mother's house.
- I spent more time with the girls than I had during my marriage. I got involved with their school, I took them camping, on vacations, and I taught them to ski. Naturally, we became closer as a result.

Shortly after the two year waiting period concluded, I filed a motion requesting equal placement. A guardian ad litem was appointed, and he subsequently had several meetings with my girls, as well as my ex-wife and myself.

Despite of the fact that the guardian ad litem recommended to the court that my placement be substantially increased, my request and his recommendation was denied at trial by a judge who had not even seen a photo of my girls, much less had any conversation with them. So, I appealed on the grounds that the law provided that my placement should be maximized, taking into consideration any geographic or accommodation limitations, of which I have none. The Court of Appeals didn't help much and cited in its decision that they didn't know **how they could maximize time with one parent without minimizing the other**.

Thankfully the Supreme Court decided to hear my case and I am hopeful that their decision will establish a precedent which binds the lower courts to more equitable treatment of fathers.

So, why am I telling you all this? Because I truly believe that:

1. The **best interests** of children in Wisconsin are not being served by the current law. The courts themselves have said that it is ambiguous. Many fathers who want to be an equal parent are not allowed to do so simply due to the out dated bias that kids are better off with their mother.
2. Because studies show that children are more likely to develop into responsible adults when they've had the benefit of a meaningful relationship with both parents in their up-bringing.
3. Because I believe that equalized placement should be the starting point in these cases (as is joint custody). Adjustments to equal can then (and should be) made to address geographic, accommodation, fitness of

parents and other issues in regard to the best interest of the children. We should start by treating all parties equally, and then adjust as appropriate. Not the other way around where battles are fought to achieve equality.

4. The current law leads to prolonged legal battles, draining affected families of their financial resources ($40,000 and growing in my case, plus an approximate equal amount on the part of my ex-wife). The $80,000 spent thus far on my case could put one of my girls through college. All this litigation also clogs the courts and draws on taxpayer resources.
5. Passing this bill into law will not result in a flood of modification cases, which clog up the court system because the outcome of these cases will be more predictable. Knowing the probable outcome, parents will be more inclined to reach agreement with minimal court involvement.

Again, I ask you for your support of this bill. Thank you very much for allowing me to give you my perspective. I will be happy to answer any question you may have.


FORWARD
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With the amount of people present today, I wanted to be respectful of your time and submit written testimony only. Thank you

Thank you committee members for allowing me to speak today. Senate Bill 586 is very important to me- as a child who grew up without a father, also as a mother who is raising a daughter who was forced to grow up without her father. I have experienced the need for SB586 first hand, and I see its need all around us.

no date

A recent 2005-2006 study (with results just being released yesterday)done by the Ministry of Evangelical Fellowship, found that children of this generation are crying out for their fathers.

This United States Survey found:
An estimated 24.7 million children live absent from their biological fathers.
26% of absent fathers live in a different state than their children, not by choice
40% of the children who live in fatherless households have not seen their fathers in at least a year, and 50% of children who don't live with their fathers have never stepped foot in their father's home.

We live in a generation of children who are crying out for their fathers.

Taken from the US NEWS AND WORLD REPORT:
Dad is destiny. More than any other factor, a biological father's presence in the family will determine a child's success and happiness. Rich or poor, white or black, the children of divorce and those born outside marriage struggle through life at a measurable disadvantage. More than half of today's children will spend at least part of childhood without a father.

Fatherless ness is the most destructive trend of our generation.
The absence of fathers is linked to most social nightmares--from boys in gangs with guns to teenage girls with babies.. There were some 1.2 million divorces last year, just over half of those involved minor children.

Even the lucky child who sees his or her dad at least once a week (Which is just 1 child in 6)--often winds up with a "treat dad" for weekend movies, not a father to offer constant guidance and discipline.

Senate Bill 586 clarifies that "maximizing" placement with each parent means "equalizing to the highest degree" placement with both parents. This bill will put an end to the conflicting presumptions and all of the legal hurdles that stand in the way of a parent that wants to share in an equal role in raising his or her children. The intent of this legislation is to assure children the fullest opportunity to establish a relationship with both of their parents and to accomplish this in a way that reduces the need for the parents to litigate this in our Wisconsin courts.

Again, THANK YOU – Committee members for allowing me to speak today.

Stephanie Pierick- 7871 Hwy 133 West- Woodman, WI 53827

Stephanie J. Pierick


FORWARD
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SENATOR JEFF PLALE
SEVENTH SENATE DISTRICT

STATE CAPITOL
P.O. BOX 7882
MADISON, WI 53707-7882

(608) 266-7505
(800) 361-5487
SEN.PLALE@LEGIS.STATE.WI.US

no date

Testimony of State Senator Jeff Plale
Senate Bill 586: Relating to Equalized Placement of Children
Senate Committee on Judiciary, Corrections and Privacy

Thank you, Chairman Zien and members of this committee, for your consideration of Senate Bill 586.

I believe this legislation is a necessary improvement to the process of determining physical placement of children in the case of separation or divorce. When adults come before family court to dissolve a relationship, it is a tumultuous, emotional time. The anger and hurt of such an ordeal can cloud even the best judgment. In the midst of such an adversarial process it is quite common for two loving parents to forget the impact such a battle has on the children who need, love and depend on them both.

The family court system was designed to step in and restore some of reason and objectivity to this process. The court was not meant to be an advocate for either parent rather the court has the responsibility to ensure the children are allowed to maintain the relationship they have with both parents. Unfortunately, that is not the case in many family courtrooms. Too often, a less objective approach is taken when physical placement decisions are made. The effect of these decisions has been to undermine the child parent relationship with a significant number of parents who, for no reason other than the whim or tradition of the court, are comply with an order prevents them from being a parent to their children.

This bill restores objectivity to the physical placement process. Simply put, this bill requires an equalized physical placement of children, to the extent possible, so long as that placement does not endanger the welfare of the child or children. Courts will no longer be forced or allowed to indulge the bitterness and discord that is so common during divorce proceedings. One parent can not demand their relationship with the child take precedent over the other parent. Parents will be forced to equally share the responsibilities of co-parenting regardless of their personal relationship with one another. Decisions will be made, as they should be, by both parents to the greatest extent possible.

Families break down; it is sad reality of the world we live in. We can not let that breakdown destroy the bonds between parent and child. Even when families fracture, there remains an obligation between the members of that family. We must make sure that our court system serves to ensure that those obligations are met and that no bond is broken. I urge you to pass SB 586; this legislative proposal will restore a small measure of reason and fairness to an otherwise divisive situation.

FORWARD


FORWARD
E PLURIBUS UNUM

no date

To whom it may concern in the Wisconsin State Assembly,

It is my sincere regret that I cannot attend your hearing on AB897. It is very tough on a lot of us fathers to take time off of work to attend these functions in Madison because obviously we have children to support and all to often ex-wives who tend to benefit financially at our expense due to the acrimonious environment of this state's family court system, where the only consistent winners are the lawyers and all too often the children are the biggest victims.

A measure to equalize placement of affected children from a divorce situation is something that is absolutely important to the children involved and to society in general. Study after study proves that children who are raised without the involvement of their fathers are more prone to become juvenile delinquents, drug addicts, runaways, have problems with alcohol, display anti-social behavior towards school officials and law enforcement, and, at least in the case of young girls, the teen pregnancy rate increases dramatically. Not only does this weigh heavily on the minds of the fathers like myself involved, but it also creates more problems for society in general, causing a greater need for expensive social programs and a greater burden on our public school and law enforcement officials.

Another point to consider is how can it be justified that at every opportunity the government tells us, even to the point of law and regulation, that women have every equality with men, yet when it comes to the family courts and the awarding of child support and child placement, women by and large are getting preferential treatment. This is a glaring absurdity in a supposedly enlightened culture. To not act on this proposed legislation would be a promotion of double standards, and the voters of this great state are increasingly tiring of double standards.

It seems obvious to me and others as well that many of the problems in collecting child support are in fact caused by vindictive mothers, their lawyers, and the family court system shutting fathers out of the lives of their children. While this isn't necessarily justification for shirking ones child support obligations, it does play a large part, and consequently causes additional government resources to be applied needlessly.

In conclusion , dear assemblypersons, let us please work together to fix this obviously broken system together for the benefit of all members of our society as well as for the generations that succeed us.

Sincerely,

Brian Shikoski


FORWARD
E PLURIBUS UNUM

no date

Good afternoon, honorable chair and committee members, My name is Andrew Steiger, today I stand before you to testify on behalf of myself and other disenfranchised fathers of Wisconsin. I thank you for that opportunity.

Prior to my divorce I was a lecturer, teacher and Administrator, today I work in,a reduced capacity as a network Administrator. I used to teach music, computer science, math, philosophy and the social sciences, I have masters of science and education, a doctorate in physics. I speak 6 languages, also taught music to prenatal and postnatal children up to the age of college and beyond, I participated in special education and yet none of these things am I allowed to teach my children, simply due to the opinions of a judge and the associated judicial machinery. That were heaped on me when I first heard I was to be divorced with no options due to the doctrine of no fault. More importantly I have not asked for a divorce from my children.

After spending almost $40,000 dollars, I am no closer to securing an equitable relationship with my children than I was when I started, I have undergone tortuous personal and financial hurdles just to hear one attorney tell me 'that they cannot advocate for me, because the judge has already decided.' And another tell me that they were 'surprised that I had lasted so long'.

I have here a document, it is the parenting plan that I had originally submitted to both my attorneys, the attorneys ignored this document. I used the state statutes as a guide,

not one of those statutes was applied to my case though they were quoted in documentation, I often heard from the GAL those wonderful words 'the best interests of the children', I mistook this to mean the standard as prescribed under section 767.24. My experience has found this to be the contrary, the only thing that has applied is the continuous personal rhetoric of Judges, attorneys, and GAL's.

My work takes me far from home and in times of unexpected urgencies at work I may be delayed by minutes, often even though I have phoned in advance to forewarn of my possible lateness. As some form of punishment after driving for many hours, I am denied placement of our children at the very last minutes.

When I do have the children in my care, I try to have as natural a relationship as I can make squeezed into what little time I have with them. In the two years of my divorce, my own mother has seen the children but three days, though she lived with me for six months. Members of my the paternal side of the childrens family for the wedding of my brother arranged it around my scheduled placement, and flew in from all around the world to accommodate this special occasion, only to have it denied at the last minute by the GAL, despite agreements arranged by both our attorneys. I cannot but despair at the inequity of family law. There are many statistics published by our own federal government that contradict the very political statements espoused by the media, our politicians and the public.

My experience with the family courts of Wisconsin has taught me to fear the law not endear it, I still to this day fail to understand why two fit parents must be subject to the ordeal of becoming one winner and one loser, to become forever embittered enemies, how can such a process ever help the parents of the children, and more especially the children.

After the revisionist history I have had to defend against, I cannot but despair, it makes no sense.

In my vocation I see young males and females, many of whom are from divorced parents, a great proportion of those display the emotional scars, represented in their outlooks, emotional maturity, and more importantly their educational abilities. These young men and women represent the hardier characters, simply because statistically many succumb to the psychological detriment of fatherlessness, many more children falter and are left behind.

Today we are in the 21st Century, and yet barbarism exists in family court, and today I believe in Wisconsin over 40 more parents and their children will be subject to the same procedure I have endured. Constitutional laws of equality it appears have left our family courts.

I ask the committee today to consider the legislation of this Bill, and to enact its rendering into a law that is black and white, that has teeth and that make both parents fulfill

their obligations to their offspring, if it takes two to create a child, it should take two to nurture them. To bring up children these days to adulthood takes two loving and caring parents which can be done whether the parents are divorced or not, since the fundamental instinct to nurture exists in both parents, the family court should not be able to abrogate those rights without good cause.

STATE OF WISCONSIN, CIRCUIT COURT, DODGE COUNTY

In re the marriage/paternity of:

JODY A. STEIGER ,
Petitioner,
and

ANDREW G. STEIGER ,
Respondent

Case No. 04-FA-54

For Court Use Only

PARENTING PLAN

I am the ☐ mother ☒ father of the following child(ren).

ANDREW ARLIN JARMAN STEIGER d/o/b :August 30th, 2003

SAMAYA ANN STEIGER d/o/b :July 8th, 2004

I understand that Wisconsin law states that:
767.24(4)(b) (b) *A child is entitled to periods of physical placement with both parents unless, after a hearing, the court finds that physical placement with a parent would endanger the child's physical, mental or emotional health.*

767.24 (4) (a) 2. The court shall set a placement schedule that allows the child to have regularly occurring, meaningful periods of physical placement with each parent and that maximizes the amount of time the child may spend with each parent, taking into account geographic separation and accommodations for different households.

767.24 (1m) PARENTING PLAN. In an action ... in which legal custody or physical placement is contested, a party seeking sole or joint legal custody or periods of physical placement shall file a parenting plan with the court before any pretrial conference. Except for cause shown, a party required to file a parenting plan under this subsection who does not timely file a parenting plan waives the right to object to the other party's parenting plan.

The following is my parenting plan, which defines to the best of my ability, what I believe the court order should be to secure the best interest of our children:

1. **Residence:** I am currently residing at: Address: 117, JANSEN DRIVE, City: FOX LAKE, State: WISCONSIN, ZIP: 53933
For the next two years it is my intention to reside at: Address: 117, JANSEN DRIVE, City: FOX LAKE, State: WISCONSIN, ZIP: 53933
☐ This is an interspousal battery, or domestic abuse case and I decline to give my address.

2. **Current Employer:** I am currently employed by: SILVER LAKE COLLEGE
Full address: 2406 SOUTH ALVERNO ROAD, MANITOWOC, WI, 54220
Position: ADMINISTRATOR
Days/Hours of Employment: MONDAY - THURSDAY
☐ This is an interspousal battery, or domestic abuse case and I decline to give my place of employment.

3. **Legal Custody:** Legal custody of the child(ren) (who will have the legal right to make decision regarding the children) shall be awarded: ☒ Jointly to both parents. ☐ Solely to the ☐ mother ☐ father
☐ Split between the parents as follows: mother shall have sole custody of:_____
_____father shall have sole custody of:_____
Custody to the ☐ mother ☐ father is denied for the following reasons: _____
_____

4a. **Periods of Physical Placement:** Periods of physical placement (periods of time each parent will be responsible to care for the child(ren)), shall be allocated as follows:

☒ Placement of the child(ren) shall be shared equally between both parents according to the physical placement schedule defined below.

☐ Placement of the child(ren) shall be primarily with the ☐ mother ☐ father with placement periods with the ☐ mother ☐ father according to:

- ☐ reasonable periods of physical placement, upon reasonable notice, as worked out between the parents.
- ☐ the physical placement schedule defined below.
- ☐ Placement of the child(ren) shall be split between the parents according to the placement and holiday schedule defined below and attached placement schedule for each additional child(ren).

☐ Periods of physical placement to the ☐ mother ☐ father are denied for the following reasons:

_____

_____

4b. **Physical placement schedule** for the child(ren) shall be with the ☐ mother ☒ father as indicated below. The balance of the time the child(ren) will be with the ☒ mother ☐ father.
(Define specific days of the week and times for each transition between parents.)
For: (list names of children) ANDREW , SAMAYA_____
During the school semester
THURSDAY 6.00 PM TO SUNDAY 6.00 PM_____
Or placement schedule as outlined and summarized below to follow the mothers work routine:
On a seven week work cycle, week 1 determined as the first week where mother has Monday and Tuesday as her weekend.

_____

During the summer
THURSDAY 6.00 PM TO SUNDAY 6.00 PM_____
AND_____
FOUR PERIODS OF SEVEN CONSECUTIVE DAYS

_____

_____

Of the 365 days of the year, this placement schedule (including holidays) results in the following number of placement days with: the mother 222, the father 143.

5. **Holidays:** The holidays shall be divided as follows: length of holiday placement period

Spring/Easter vacation	☒ alternate	☐ Father if Mother is working
Thanksgiving Day	☒ alternate	☐ Father if Mother is working
Christmas Eve/Day	☒ alternate	☐ Father if mother is working
Christmas vacation	☒ alternate	☐ Father if mother is working
Father Day	☐ alternate	☒ Father_____
Mothers Day	☐ alternate	☒ Mother_____

6. **Decision making authority:** Decisions in the listed areas will be made as follows:

Education:	☒ jointly by both parents	☐ mother	☐ father
Medical Care:	☒ jointly by both parents	☐ mother	☐ father
Child Care:	☒ jointly by both parents	☐ mother	☐ father
Extracurricular Activities:	☒ jointly by both parents	☐ mother	☐ father
Major Purchases	☒ jointly by both parents	☐ mother	☐ father

7. **School:** The child(ren) will attend the following school(s) this school year: (include location)
TO BE DETERMINED

_____

_____

8. **Medical providers:** Medical services will be provided to the child(ren) by the following:
Doctor/Pediatrician/Clinic: DEAN CARE HEALTH SYSTEM
Other: _____
Insurance/Health Plan will be provided and paid by the ☒ mother ☐ father
The children's portion of the cost of heath care insurance is $_____ per month.
The ☐ mother's ☐ father's portion of $_____ per month shall be:
☐ added to, or ☐ subtracted from, the basic child support defined under item #11 below.
The cost of out-of-pocket heath care expenses will be paid by the:
☐ mother ☐ father ☐ both parents in equal shares ☒ parent who receives child support
☐ as follows: _____

9. **Child care while a parent works:** ☐ The child(ren) do not require child care. ☒ Child care will be provided by: FIRST REFUSAL OFFERED TO THE OTHER PARENT
The cost of this child care is approximately $_____ per month.
The cost of child care (if needed) will be paid directly to the child care provider by the:
☐ mother ☐ father ☐ both parents in equal shares ☒ parent who receives child support
☐ as follows: _____

10. **Religious upbringing:** The child(ren) will be raised in the following religion: NON DENOMINATIONAL CHRISTIAN FAITH

11. **Child support, family support, maintenance or other income transfer.**
The monthly gross income of the mother is $3200.00, of father is $4400.00.
☐ mother ☐ father ☐ neither will pay monthly basic **child support** of: $_____
☐ adjustments for (health care, travel, etc) $_____ Total child support $_____
☐ Per Wisconsin's child support standard ☐ other. The use of the standard is unfair because: _____

Independent of any child support transfer, each parent will be responsible for all of the children's direct expenses (food, housing, entertainment, etc) while in his or her placement. Common expenses for the children, such as school tuition, books, clothing and extra-curricula activities will be paid by ☐ the parent who receives child support, ☐ the parent who incurs costs, ☐ split as follows: _____

☐ mother ☒ father ☐ neither will pay monthly **family support** of: $800 + 3% PER ANNUM,
☐ mother ☐ father ☒ neither will pay monthly **maintenance or other income transfer** of: $,
for a period of 48 MONTHS. This is fair because:

12. Each parent shall assist the child(ren) in **maintaining contact with the other parent** by:
☒ direct contact through periods of placement ☒ telephone contact ☒ cards/letters
☒ providing copies of child(ren)'s school projects ☒ e-mail
☒ providing photographs of child(ren) participating in activities
☒ assisting child(ren) with gift purchasing for other parent for birthdays and holidays
☒ assisting child(ren) with letter writing to other parent
Other: _____

13. **Resolving disagreements:** If there are disagreements between myself and the other parent on issues that are to be joint decisions, the disagreements will be resolved by: *(list first, second and third choice)*:
☐ The parent who will have greater placement of the child(ren) while dealing with this issue will decide.
☐ Each parent shall take turns on having the final decision regarding each issue in conflict.
☐ Flip a coin (in the presence of a neutral party) to decide who will have the final decision regarding each issue in conflict.
☒ Ask for assistance from friends, relatives, clergy or others who can be neutral and fair. The following person(s) shall serve as a third-party neutral(s):
☐ Contact an alternative dispute resolution therapist, mediator or arbitrator. The following person(s) shall be used for this purpose:
_____ Other: _____

14. (If there is evidence of **interspousal battery**, as described under s. 940.19 or 940.20 (1m), or **domestic abuse**, as defined in s. 813.12 (1) (a) in this relationship, attach an explanation and answer this question.) To ensure the safety of the child(ren) and/or parent, transfers of the child(ren) between the parents shall be at:
☐ A neutral public site *(name and location)*: _____
☐ The home of the following person *(name and location of person)*: _____
☐ Other location: _____
☐ Monitored by law enforcement *(name of agency)*: _____

☐ There are special concerns and evidence in this case that physical placement with the ☐ mother ☐ father would seriously endanger the child's physical, mental or emotional health. See attached explanation.

Additional clarification to items 1-14 of this parenting plan, are attached. ☐ yes ☐ no

I believe that this parenting plan acts to secure the best interest of our children and I ask the court to adopt this plan as part of the court's order.

_____
Signature of Parent

_____
Date Submitted

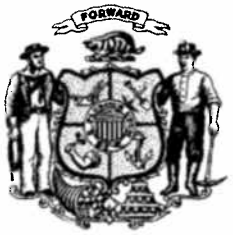
If both parents agree with this parenting plan, the other parent should sign the following statement:

I agree that this parenting plan acts to secure the best interest of our children and I also ask the court to adopt this plan as part of the court's order.

_____
Signature of Parent

_____
Date Submitted


WISCONSIN STATE LEGISLATURE


FORWARD

no date

To the members of the Wisconsin State Legislature in attendance at the public hearing for the introduction to AB-897:

My name is Ken Walker. I am a father of three (3) children, of which two (2) are still minors. Again, thank you for the opportunity to speak on behalf AB-897 Equal Placement. I am using a vacation day from my place of employment to be in Madison today. Mrs. Carol Owens, I don't know if you remember me, but I stood up in your daughter, Lo Ann's wedding in the mid-1980's, she replaced me as accountant at the Winnebago County Highway Department, and I was at your granddaughter, Ariel's graduation party from Oshkosh West High School a few years ago. I have to hurry back after this is concluded today, for I have a meeting at the Winnebago County Highway Department at 4:00 pm.

The marriage to my first wife ended in late 1994. We have two (2) children, Arja, now fourteen (14), a freshman at New Berlin Eisenhower, and Brett, age twelve (12), a sixth grader at Messiah Lutheran in Hales Corners. This is one of those "sad, fatherless" stories: We had our first preliminary hearings in January, 1995, where placement and child support are set. It was in front of Milwaukee County Deputy Family Court Commissioner Sandra Grady. I also was paying Child Support to Waushara County for my older son. FCC Grady set placement at every other Saturday, from 1:30pm to 6:00pm. My –ex wife denied placement over 20% of the time over the next year, of this nine (9) hour per month secondary placement. I had more placement with my out of wedlock son from then Waushara County (now Supreme Court Judge Jon P. Wilcox) than I did with my children from marriage that I lived with. I did take her to court on a contempt motion for denied placement, but that was a farce, with no scolding or penalties imposed. By the way, in these over eleven (11) years, I have never been behind in my $8,000 per year child support obligation

So in late 1995, I filed a motion for modification of secondary placement to expand visitation to a normal, Friday evening 5:00pm to Sunday evening 6:00pm, every other holiday, and a week's vacation in the summer, a typical "Disneyland Dad", arrangement. This hearing was in front of Milwaukee County Assistant Family Court Commissioner Joseph Frinzi Due to the fact I was living with another woman and working four (4) jobs everyday, except weekends, he graciously expanded secondary placement from the nine (9) hours a month to a "shameful" twenty-six (26) hours per month, no overnights and the same 20% denial rate. I filed the wrong motion to get her in contempt. Also, after one (1) complete year of being separated, my –ex filed and was temporarily granted a restraining order. Another attempt to frustration my placement attempts. I filed a "de novo" in front of very gender biased Milwaukee County Judge Dominic Amato (remember, he was the judge who allowed the children to divorce their father, only to have it overturned by the Court of Appeals). The two (2) year renewable restraining order was all set to be in place, when Judge Amato said the exchange had to take place at the West Allis Police Department, then out of now where, my –ex wife miraculously withdrew her restraining order.

After eight (8) months, I made a motion to assign a guardian ad Litem. After the initial interview and home tour, on 12/10/1996, Judge John McCormick granted the DisneyLand Dad arrangement. Because our marriage was such a financial disaster: ten (10) income tax liens, three (3) small claims judgments, cash basis with the landlord, power shut off twice, phone disconnected four (4) times, consumer debt over $20K and we got caught kiting between bank. I agreed to pay all this off to avoid bankruptcy. Judge McCormick allowed my three (3) part time jobs were to be exempt from child support to pay this off within three (3) years. My goal was to expand placement after the financial issues were over. I really didn't think the underlying saying, "temporary orders have a way of becoming permanent orders" was going to apply. I have a college degree and have never been in trouble with the law.

During that time, my –ex filed a supervised visitation motion against me. I had to divert badly *debt reduction* funds for my legal defense. In the end, my –ex, at the recommendation of the second (2nd) Guardian ad Litem, succumbed to no foundation for supervised placement. But the damage was done. The three (3) years were up and every debt was paid in full, except the largest income tax lien with the IRS. After my contempt motion was denied for more missed visitation with police reports, I asked Milwaukee County Judge Michael Goulee on 1/24/2000, for an extension of time to have the part time income exempt from child support to pay for the marital debt. He said, "Not in my courtroom. You should have addressed that at the conclusion of the supervised visitation. You can't come in here and ask for an exception to the child support 25% of all sources. Denied!" I was devastated, and tired of fighting this gender-biased system. I couldn't go on anymore with no penalties whatsoever against the custodial mother. That was also the last time I had secondary placement with my child, six (6) years ago.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no date

Time Line

-**22 July 1999** SPB's Birth Day

-**Feb 2000** Pam moved out of our house in Wauwatosa to an Apt. in West Allis. Pam continued to work as a night shift nurse in L&D at Sinai. Her father watched SPB when Pam worked nights and I helped (on Pam's days) take SPB back and forth to daycare, which was by my place of employment.

-**Summer of 2001** Pam moved to Cottage Grove Wisconsin for a position as an OR nurse. Before she left I told Pam that there were plenty of OR positions in the Milwaukee Area and even printed off job openings. Pam said she had to get out of Milwaukee. She said there were better benefits at UW-Hospitals than here, but I tried to explain to her that the best benefit for SPB was for us to be close by. I told her that when SPB started school it would be hard on all involved and SPB would be the one to suffer. I asked my attorney it there was anything I could do to stop her but he said it was within the Law. I got a second opinion, which concurred.

Summer 2001-February 2003

We shared placement of SPB 50/50. I had SPB every Wednesday and Thursday plus every other Friday, Saturday and Sunday. I dropped Sydney off at Johnson's Creek and Pam dropped Sydney off in Delafield. *My work schedule revolved around when I had SPB, I only had to work one 8 hour day every two weeks when I had placement. Pam worked M-F plus call.*

January 2003 Family Vacation to Disney World. This is the last time I had placement of SPB for more than 5 days in a row!

2 March 2003

Mobilized to Ft McCoy in preparation for Operation Iraqi Freedom. Trained 7 days a week for first month, then tempo slowed down.

April 2003

My unit was ready to go so training was only happening M-F. We had to stay within 50 miles of Ft McCoy. I asked Pam if I could have SPBon the weekends, she let me have her a couple but said it was too hard on SPB. Pam did take SPBto Ft McCoy and to the Dells so I could spend the weekend with her. Talked with Pam about additional child support, I agreed to pay her $200 extra a month because I was willing and able to have SPB every weekend, Pam did not think that was fair and did not want me to have SPB every weekend.

May 2003-June 2003

My unit received a mission to Afghanistan, I was not chosen so I could now go anywhere within 250 miles of Ft McCoy. I again asked for SPB on the weekends and had her sporadically. It appeared that I was able to have SPB when Pam had other plans. I was to stay on active duty to recover our equipment that had shipped to Iraq. I should have been off Active Duty by September.

July 2003-March of 2004

I was notified that the Medical Operations Officer for the Combined Joint Task Force 180 had to go home due to a heart ailment. I was ordered to be the replacement; I left for Afghanistan on 17 July 2003. I spoke with my attorney regarding drafting a temporary placement order to cover while I was gone, my major concern was that there be a stipulation in it that it reverts back to the prior placement schedule upon my return home. *He used the verb age upon my release from Active Duty placement will go back to prior. Unfortunately, I was injured in Afghanistan and have had three surgeries since my return.* My attorney advised that I pay the full child support from the day I left. Pam received a check to make up the difference between the $200 extra and what was owed her.

Originally, we were only going to be over in Afghanistan for a short tour of 3 months, which clearly was extended a couple of times.

April 2004-July 2004

Stationed at Ft McCoy for medical care, was there M-F and went home on the weekends. I tried working with Pam to get placement time back but every time I met her wishes, she added more requirements. I visited with Sydney on Friday's and Sunday's on my way to and from Ft McCoy. I also drove down during the week to watch her T-Ball Games, swimming classes and ballet.

July 2004-December 2004
I am now staying in my own home, getting my medical care per civilian providers, working a M-F job at my reserve unit.
I was only allowed to see SPB one weekend per month. I asked for vacation time in August (I gave 2 months notice), but when it came time for the vacation I was told SPB had an important speech appointment right in the middle of my vacation. I asked if it could be changed and was told it could not be. It ended up being double booked, canceled and never made up.
September 2004
SPB started school in Madison
January 2005-April 2005
I was allowed to have my daughter every other weekend.
May 2005-Present
GAL involved in case. Her recommendation is for me to have placement every other weekend and over the summer it would be a 5 day weekend. Per court papers it is unlikely I would be able to get placement of my daughter for the school year due to my service in Afghanistan and they don't want me to have placement in the summer time because I'll have to work.
June 2005-August 2005
SPB was allowed to see me less than half the time.

I am proud beyond words for what was accomplished in Afghanistan and the role my unit played. Although being away from family and friends is a high price to pay, doing my part in making the world safe for my children and others children makes the price tolerable. But to come home and spend 22+ months trying to get placement time back with my daughter is a cost too high to pay.

I am aware of another soldier on his way to Iraq whose ex is trying to take placement away from him. That is not something he should be worried about on his way to a combat zone.

I am also aware of a soldier form the Kenosha area whose ex moved his children out of state while he was gone, serving his country.

-I tried working with SPB's mother, to no avail
-I tried working with the legal system and using the current protections available under the "Service Members Civil Relief Act"
-I tried to get help from the Army's JAG corp, but was told that when I was released from active duty they would not represent me. Also I was told they did not like to deal with family law.
-I have tried working with the Army to resolve this issue with minimal help. Mostly I received that this is the cost of serving your country.
-I am grateful that you are addressing this concern and that Representative Gundrum was proactive and brought this bill forward.


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AB 897 Testimonies

Disk 1

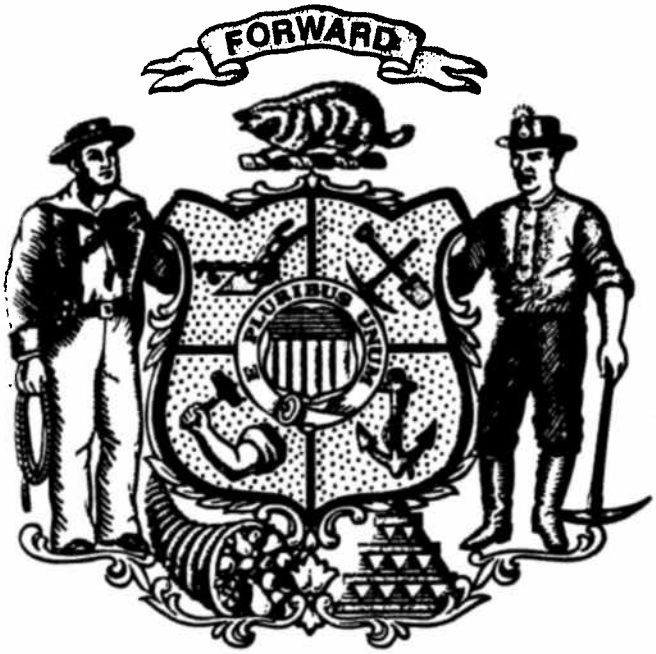
1. 0:00 State Assemblyman Pridemore
2. 16:50 Michael Schoenfield, Madison
3. 19:04 Peter Anderson, Madison
4. 22:42 Eric Hadland, Bayfield
5. 29:12 Ken Walker, Oshkosh
6. 44:22 David Lewis, Wauwatosa
7. 53:05 Joseph Vaughn, Evansville
8. 56:50 Stephanie Pierick, Woodman

Disk 2

1. 0:45 Charles Behnke, Milwaukee
2. Alfreda Kubala, Oxford

Disk 3, 4 and 5

1. 0:00 Peter Kerr, Grafton
2. 7:45 Steve Blake, Oxford
3. 14:35 Mary Jane Rosenak, Madison
4. 22:40 Robert Louis Rasmussen, Wauwatosa
5. 25:00 Yacouler Traore, Milwaukee
6. 33:48 John Mayer, Milwaukee
7. 43:08 John Donoghue, Cottage Grove
8. 47:15 John Kruck, Fond du Lac
9. 53:18 Lea Laack, Morrisonville
10. 57:27 Katti Laack, Morrisonville
11. 61:12 Jodi Roberts, Morrisonville
12. 68:35 Mike Landwehr, Brookfield
13. 76:20 Andrew Steiger, Fox Lake
14. 84:01 Tom Glowacki, State Bar
15. 113:16 John Scheel, Franklin
16. 120:24 Tom Pfeiffer, Verona
17. 134:24 James Zanto, Cornell
18. 138:03 Bryan Holland, Monroe
19. 143:25 J. D. Milburn, Madison
20. 152:08 Jan Raz, Hales Corners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AB 897

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AB 897: Equalizing Placement Bill -- Summary

Myths about AB 897 Intent of AB 897 Full text of AB 897

Summary

This bill proposes to streamline the ways Wisconsin Courts resolve disputes over child placement in divorce and paternity cases. It is intended to allow the children in these cases to benefit from the fullest support of both of their parents, without having to endure the emotional and financial damage resulting from the current process of resolving such disputes.

- Require parenting plans to be submitted before the initial court appearance and requires parents to consider the best interest of their child factors.
- Require a court to equalize to the highest degree placement of the children with both parents after considering the parenting plans of both parents and taking into account geographic separation and accommodations for different households, unless the court finds by clear and convincing evidence that this would be harmful to the children.
- Require the court to protect the welfare and the best interest of the children, if the court finds that equalizing placement of the children with both parents would be harmful to the children.
- Require temporary orders, mediators and guardian ad litems to use the same legal standard for resolving child custody and placement disputes as court commissioners and judges in final orders.
- Remove conflicting presumptions and unnecessary legal obstacles in modification of existing orders that obstruct many fit parents who are willing to assume their full responsibility to participate in the raising of their children.

These provisions are based on the principle that fit parents will act in the best interest of their children, even if they are divorced or never married. By supporting each parent's equal role in the raising of their children, in most cases the need to litigate this issue in Wisconsin Courts would be greatly reduced and the children would benefit from the full emotional and financial support of both of their parents.


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The Constitutional Right to Be a Parent

Below are excerpts of caselaw from state appellate and federal district courts and up to the U.S. Supreme Court, all of which affirm, from one perspective or another, the absolute Constitutional right of parents to actually *BE* parents to their children.

The rights of parents to the care, custody and nurture of their children is of such character that it cannot be denied without violating those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions, and such right is a fundamental right protected by this amendment (First) and Amendments 5, 9, and 14. Doe v. Irwin, 441 F Supp 1247; U.S. D.C. of Michigan, (1985).

The several states have no greater power to restrain individual freedoms protected by the First Amendment than does the Congress of the United States. Wallace v. Jaffree, 105 S Ct 2479; 472 US 38, (1985).

Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. Though First Amendment rights are not absolute, they may be curtailed only by interests of vital importance, the burden of proving which rests on their government. Elrod v. Burns, 96 S Ct 2673; 427 US 347, (1976).

Law and court procedures that are "fair on their faces" but administered "with an evil eye or a heavy hand" was discriminatory and violates the equal protection clause of the Fourteenth Amendment. Yick Wo v. Hopkins, 118 US 356, (1886).

Even when blood relationships are strained, parents retain vital interest in preventing irretrievable destruction of their family life; if anything, persons faced with forced dissolution of their parental rights have more critical need for procedural protections than do those resisting state intervention into ongoing family affairs. Santosky v. Kramer, 102 S Ct 1388; 455 US 745, (1982).

Parents have a fundamental constitutionally protected interest in continuity of legal bond with their children. Matter of Delaney, 617 P 2d 886, Oklahoma (1980). .

The liberty interest of the family encompasses an interest in retaining custody of one's children and, thus, a state may not interfere with a parent's custodial rights absent due process protections. Langton v. Maloney, 527 F Supp 538, D.C. Conn. (1981).

Parent's right to custody of child is a right encompassed within protection of this amendment which may not be interfered with under guise of protecting public interest by legislative action which is arbitrary or without reasonable relation to some purpose within competency of state to effect. Regenold v. Baby Fold, Inc., 369 NE 2d 858; 68 Ill 2d 419, appeal dismissed 98 S Ct 1598, 435 US 963, IL, (1977).

Parent's interest in custody of her children is a liberty interest which has received considerable constitutional protection; a parent who is deprived of custody of his or her child, even though temporarily, suffers thereby grievous loss and such loss deserves extensive due process protection. In the Interest of Cooper, 621 P 2d 437; 5 Kansas App Div 2d 584, (1980).

The Due Process Clause of the Fourteenth Amendment requires that severance in the parent-child relationship caused by the state occur only with rigorous protections for individual liberty interests at stake. Bell v. City of Milwaukee, 746 F 2d 1205; US Ct App 7th Cir WI, (1984).

Father enjoys the right to associate with his children which is guaranteed by this amendment (First) as incorporated in Amendment 14, or which is embodied in the concept of "liberty" as that word is used in the Due Process Clause of the 14th Amendment and Equal Protection Clause of the 14th Amendment. Mabra v. Schmidt, 356 F Supp 620; DC, WI (1973).

"Separated as our issue is from that of the future interests of the children, we have before us the elemental question whether a court of a state, where a mother is neither domiciled, resident nor present, may cut off her immediate right to the care, custody, management and companionship of her minor children without having jurisdiction over her in personam. Rights far more precious to appellant than property rights will be cut off if she is to be bound by the Wisconsin award of custody." May v. Anderson, 345 US 528, 533; 73 S Ct 840, 843, (1952).

A parent's right to care and companionship of his or her children are so fundamental, as to be guaranteed protection under the First, Ninth, and Fourteenth Amendments of the United States Constitution. In re: J.S. and C., 324 A 2d 90; supra 129 NJ Super, at 489.

The Court stressed, "the parent-child relationship is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection." A parent's interest in the companionship, care, custody and management of his or her children rises to a constitutionally secured right, given the centrality of family life as the focus for personal meaning and responsibility. Stanley v. Illinois, 405 US 645, 651; 92 S Ct 1208, (1972).

Parent's rights have been recognized as being "essential to the orderly pursuit of happiness by free man." Meyer v. Nebraska, 262 US 390; 43 S Ct 625, (1923).

The U.S. Supreme Court implied that "a (once) married father who is separated or divorced from a mother and is no longer living with his child" could not constitutionally be treated differently from a currently married father living with his child. Quilloin v. Walcott, 98 S Ct 549; 434 US 246, 255^Q56, (1978).

The U.S. Court of Appeals for the 9th Circuit (California) held that the parent-child relationship is a constitutionally protected liberty interest. (See; Declaration of Independence --life, liberty and the pursuit of happiness and the 14th Amendment of the United States Constitution -- No state can deprive any person of life, liberty or property without due process of law nor deny any person the equal protection of the laws.) Kelson v. Springfield, 767 F 2d 651; US Ct App 9th Cir, (1985).

The parent-child relationship is a liberty interest protected by the Due Process Clause of the 14th Amendment. Bell v. City of Milwaukee, 746 f 2d 1205, 1242^Q45; US Ct App 7th Cir WI, (1985).

No bond is more precious and none should be more zealously protected by the law as the bond between parent and child." Carson v. Elrod, 411 F Supp 645, 649; DC E.D. VA (1976).

A parent's right to the preservation of his relationship with his child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend significantly on his ability to participate in the rearing of his children. A child's corresponding right to protection from interference in the relationship derives from the psychic importance to him of being raised by a loving, responsible, reliable adult. Franz v. U.S., 707 F 2d 582, 595^Q599; US Ct App (1983).

A parent's right to the custody of his or her children is an element of "liberty" guaranteed by the 5th Amendment and the 14th Amendment of the United States Constitution. Matter of Gentry, 369 NW 2d 889, MI App Div (1983).

Reality of private biases and possible injury they might inflict were impermissible considerations under the Equal Protection Clause of the 14th Amendment. Palmore v. Sidoti, 104 S Ct 1879; 466 US 429.

Legislative classifications which distributes benefits and burdens on the basis of gender carry the inherent risk of reinforcing stereotypes about the proper place of women and their need for special protection; thus, even statutes purportedly designed to compensate for and ameliorate the effects of past discrimination against women must be carefully tailored. the state cannot be permitted to classify on the basis of sex. Orr v. Orr, 99 S Ct 1102; 440 US 268, (1979).

The United States Supreme Court held that the "old notion" that "generally it is the man's primary responsibility to provide a home and its essentials" can no longer justify a statute that discriminates on the basis of gender. No longer is the female destined solely for the home and the rearing of the family, and only the male for the marketplace and the world of ideas. Stanton v. Stanton, 421 US 7, 10; 95 S Ct 1373, 1376, (1975).

Judges must maintain a high standard of judicial performance with particular emphasis upon conducting litigation with scrupulous fairness and impartiality. 28 USCA § 2411; Pfizer v. Lord, 456 F.2d 532; cert denied 92 S Ct 2411; US Ct App MN, (1972).

State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights. Gross v. State of Illinois, 312 F 2d 257; (1963).

The Constitution also protects "the individual interest in avoiding disclosure of personal matters." Federal Courts (and State Courts), under Griswold can protect, under the "life, liberty and pursuit of happiness" phrase of the Declaration of Independence, the right of a man to enjoy the mutual care, company, love and affection of his children, and this cannot be taken away from him without due process of law. There is a family right to privacy which the state cannot invade or it becomes actionable for civil rights damages. Griswold v. Connecticut, 381 US 479, (1965).

The right of a parent not to be deprived of parental rights without a showing of fitness, abandonment or substantial neglect is so fundamental and basic as to rank among the rights contained in this Amendment (Ninth) and Utah's Constitution, Article 1 § 1. In re U.P., 648 P 2d 1364; Utah, (1982).

The rights of parents to parent-child relationships are recognized and upheld. Fantony v. Fantony, 122 A 2d 593, (1956); Brennan v. Brennan, 454 A 2d 901, (1982). State's power to legislate, adjudicate and administer all aspects of family law, including determinations of custodial; and visitation rights, is subject to scrutiny by federal judiciary within reach of due process and/or equal protection clauses of 14th Amendment...Fourteenth Amendment applied to states through specific rights contained in the first eight amendments of the Constitution which declares fundamental personal rights...Fourteenth Amendment encompasses and applied to states those preexisting fundamental rights recognized by the Ninth Amendment. The Ninth Amendment acknowledged the prior existence of fundamental rights with it: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The United States Supreme Court in a long line of decisions, has recognized that matters involving marriage, procreation, and the parent-child relationship are among those fundamental "liberty" interests protected by the Constitution. Thus, the decision in Roe v. Wade, 410 US 113; 93 S Ct 705; 35 L Ed 2d 147, (1973), was recently described by the Supreme Court as founded on the "Constitutional underpinning of ... a recognition that the "liberty" protected by the Due Process Clause of the 14th Amendment includes not only the freedoms explicitly mentioned in the Bill of Rights, but also a freedom of personal choice in certain matters of marriage and family life." The non-custodial divorced parent has no way to implement the constitutionally protected right to maintain a parental relationship with his child except through visitation. To acknowledge the protected status of the relationship as the majority does, and yet deny protection under Title 42 USC § 1983, to visitation, which is the exclusive means of effecting that right, is to negate the right completely. Wise v. Bravo, 666 F.2d 1328, (1981).

FROM THE COLORADO SUPREME COURT, 1910

In controversies affecting the custody of an infant, the interest and welfare of the child is the primary and controlling question by which the court must be guided. This rule is based upon the theory that the state must perpetuate itself,

and good citizenship is essential to that end. Though nature gives to parents the right to the custody of their own children, and such right is scarcely less sacred than the right to life and liberty, and is manifested in all animal life, yet among mankind the necessity for government has forced the recognition of the rule that the perpetuity of the state is the first consideration, and parental authority itself is subordinate to this supreme power. It is recognized that: 'The moment a child is born it owes allegiance to the government of the country of its birth, and is entitled to the protection of that government. And such government is obligated by its duty of protection, to consult the welfare, comfort and interest of such child in regulating its custody during the period of its minority.' Mercein v. People, 25 Wend. (N. Y.) 64, 103, 35 Am. Dec. 653; McKercher v. Green, 13 Colo. App. 271, 58 Pac. 406. But as government should never interfere with the natural rights of man, except only when it is essential for the good of society, the state recognizes, and enforces, the right which nature gives to parents [48 Colo. 466] to the custody of their own children, and only supervenes with its sovereign power when the necessities of the case require it.

The experience of man has demonstrated that the best development of a young life is within the sacred precincts of a home, the members of which are bound together by ties entwined through 'bone of their bone and flesh of their flesh'; that it is in such homes and under such influences that the sweetest, purest, noblest, and most attractive qualities of human nature, so essential to good citizenship, are best nurtured and grow to wholesome fruition; that, when a state is based and builded upon such homes, it is strong in patriotism, courage, and all the elements of the best civilization. Accordingly these recurring facts in the experience of man resulted in a presumption establishing prima facie that parents are in every way qualified to have the care, custody, and control of their own offspring, and that their welfare and interests are best subserved under such control. Thus, by natural law, by common law, and, likewise, the statutes of this state, the natural parents are entitled to the custody of their minor children, except when they are unsuitable persons to be intrusted with their care, control, and education, or when some exceptional circumstances appear which render such custody inimicable to the best interests of the child. While the right of a parent to the custody of its infant child is therefore, in a sense, contingent, the right can never be lost or taken away so long as the parent properly nurtures, maintains, and cares for the child.

Wilson v. Mitchell, 111 P. 21, 25-26, 48 Colo. 454 (Colo. 1910)

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