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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Public Safety, and Urban  
Affairs (SC-LPSUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

\* Contents organized for archiving by: Mike Barman (LRB) (July/2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Labor, Public Safety, and Urban Affairs**

##### **Senate Bill 23**

Relating to: preemption of city, village, town, or county ordinances requiring employers to provide employees with leave from employment to deal with family, medical, or health issues.

By Senators Vukmir, Grothman, Lazich and Darling; cosponsored by Representatives Kapenga, Stone and Honadel.

February 23, 2011 Referred to Committee on Labor, Public Safety, and Urban Affairs.

March 2, 2011 **PUBLIC HEARING HELD**

Present: (3) Senators Wanggaard, Grothman and Lazich.  
Absent: (2) Senators S. Coggs and Wirch.  
Excused: (0) None.

##### Appearances For

- Leah Vukmir — Senator
- Chris Kapenga — Representative
- Steve Baas — MMAC
- Delora Newton, Madison — Greater Madison Chamber of Commerce

##### Appearances Against

- David Leucinger, Madison
- Tony Gibart, Madison — WI Coalition Against Domestic Violence
- Ellen Bravo, Milwaukee — Family Values at Work
- Eve Degen, Madison
- Linda Harfst, Madison — Madison Teachers, Inc.
- Doris Gillispie, Milwaukee
- Caitlin Devine, Milwaukee — 9 to 5
- Dana Schultz, Milwaukee — 9 to 5
- Amy Stear, Milwaukee — 9 to 5
- Robert Kraig, Milwaukee — Citizen Action of Wisconsin
- Jodi Hanna, Madison — Disability Rights Wisconsin
- Rhonda Willette, Milwaukee
- Ameena Ali, Milwaukee

##### Appearances for Information Only

- None.

Registrations For

- Ed Lump, Madison — WI Restaurant Association

Registrations Against

- Sherry Johnson, Milwaukee — 9 to 5
- Brian Rothgery
- Yaneth Solano, Milwaukee
- Craig Hetzel, Oak Creek
- Edward Dodd, Oak Creek
- Brad Schwanda, Oak Creek

Registrations for Information Only

- None.

March 2, 2011

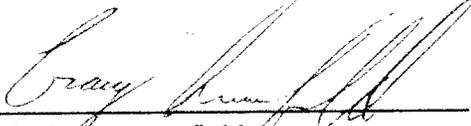
**EXECUTIVE SESSION HELD**

Present: (3) Senators Wanggaard, Grothman and Lazich.  
Absent: (2) Senators S. Coggs and Wirch.  
Excused: (0) None.

Moved by Senator Grothman, seconded by Senator Lazich that  
**Senate Bill 23** be recommended for passage.

Ayes: (3) Senators Wanggaard, Grothman and Lazich.  
Noes: (0) None.  
Absent: (2) Senators S. Coggs and Wirch.

PASSAGE RECOMMENDED, Ayes 3, Noes 0

  
\_\_\_\_\_  
Craig Summerfield  
Committee Clerk

**Vote Record**  
**Committee on Labor, Public Safety, and Urban Affairs**

Date: 3/2/10

Moved by: Grothman

Seconded by: Lazich

AB \_\_\_\_\_ SB 23 Clearinghouse Rule \_\_\_\_\_  
 AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
 AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
 A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
 A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage     Adoption     Confirmation     Concurrence     Indefinite Postponement  
 Introduction     Rejection     Tabling     Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<b>Senator Van Wanggaard, Chair</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Glenn Grothman</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Mary Lazich</b>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Senator Spencer Coggs</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Senator Robert Wirch</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Totals:</b>	<u>3</u>	<u>0</u>	<u>2</u>	<u>    </u>

Motion Carried

Motion Failed



**Summerfield, Craig**

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**From:** Romportl, Daniel  
**Sent:** Tuesday, March 01, 2011 4:38 PM  
**To:** Summerfield, Craig; Cady, Dean  
**Subject:** FW: SB 23

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**From:** Sen.Fitzgerald  
**Sent:** Tuesday, March 01, 2011 3:51 PM  
**To:** Romportl, Daniel  
**Subject:** FW: SB 23

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**From:** Debra Lessard [mailto:dlessard@asidoors.com]  
**Sent:** Tuesday, March 01, 2011 10:36 AM  
**To:** Sen.Fitzgerald  
**Subject:** SB 23

Dear Senator Fitzgerald:

I support bill (SB 23). It provides a statutory solution for situations like the Milwaukee Sick Leave mandate that has been costly to challenge, has hampered the competitiveness of the City of Milwaukee economy, and has threatened to hamper the competitiveness of local businesses. By ensuring a uniform statewide standard, the legislation will reduce the cost and complexity of compliance, enhance competition by leveling the playing field, and help businesses prosper.

I urge you to move Senate Bill 23 forward as soon as possible.

Regards,

**Deb Lessard**  
HR Manager  
ASI Technologies, Inc.  
5848 North 95th Court  
Milwaukee, WI 53225  
(414) 464-1340 ext. 24  
[dlessard@asidoors.com](mailto:dlessard@asidoors.com)  
Hours: M-F 8AM-2PM

## Summerfield, Craig

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**From:** Sieg, Tricia  
**Sent:** Tuesday, March 01, 2011 5:06 PM  
**To:** Summerfield, Craig  
**Subject:** FYI

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**From:** Milwaukee Area Labor Council AFL-CIO [mailto:malc@milwaukeeelabor.org]  
**Sent:** Tuesday, March 01, 2011 4:34 PM  
**To:** Sen.Lazich  
**Subject:** SB23 - Another Attack on Working Families (Sick Days Scam)

**MILWAUKEE AREA  
LABOR COUNCIL**  
AFL-CIO

**TAKE ACTION!**



**Urgent-**

This is yet another attack on working families and taking away local control.

Senate Republicans just announced a hearing at 9:30am tomorrow (Wednesday Mar 2, Room 330-SW in Capitol) on bill to pre-empt localities from doing ordinances on paid sick days.

<http://www.scribd.com/doc/49524585/SB-23-Official-Version-Wisconsin-State-Legislature-via-MyGov365-com>

**You'll see they're using the language of 'family leave,' but specifics prohibited all relate to the kinds of doctor's appointments and routine illness, preventative and diagnostic appointments, not to mention broad definition of family, found in Milwaukee ordinance.**

A City passed a local law backed by nearly 70% of the people in Milwaukee, corporate power players don't like it, and now they are trying to silence the voice of workers and take away local control. We are mobilizing even stronger against these rollbacks.

**Can you come to testify in Madison or get a constituent to testify about provisions of paid sick days NOT included in family leave, and why it's so important? If you can't go, can you send a statement in opposition of SB23 (Sick Days Scam)?**

Let me know if you are in Madison, can go, or know folks who will be there tomorrow morning.

**Talking Points: Sick Days Scam (SB23)**

**- Undermines local control: trying to rob voters in Milwaukee and other cities of their basic right to local decision-making**

**- Paid Sick Days helps families and the economy**

**- Latest pay-back to corporate donors**

**- If passed, the Sick Days Scam (SB23) would deprive 120,000 Milwaukee families who do not have paid sick leave through their work of the freedom to take care of ill family members without fear of losing their jobs or a paycheck.**

**- WI Family Medical Leave covers only serious medical conditions and not colds and flu, preventative and diagnostic care, domestic violence recovery, or caring for domestic partnerships**

For more information please call 414-274-0920 or e-mail [dana@9to5.org](mailto:dana@9to5.org)

opeiu 9 afl-cio

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**Summerfield, Craig**

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**From:** Sen. Wanggaard  
**Sent:** Tuesday, March 01, 2011 5:22 PM  
**To:** Summerfield, Craig  
**Subject:** FW: Support of SB 23  
**Attachments:** image001.jpg; image002.jpg

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**From:** Karen Mahlkuch [mailto:KMahlkuch@wmc.org] **On Behalf Of** John Metcalf  
**Sent:** Tuesday, March 01, 2011 3:46 PM  
**To:** Sen. Wanggaard; Sen. Grothman; Sen. Lazich; Sen. Coggs; Sen. Wirch  
**Cc:** John Metcalf; Karen Mahlkuch  
**Subject:** Support of SB 23



**TO:** Members of the Senate Labor, Public Safety and Urban Affairs  
 Committee  
**FROM:** John Metcalf, Director, Human Resources Policy  
**DATE:** March 1, 2011  
**RE:** Support of SB 23

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**Background**

Under current law, an employer, including the state, that employs at least 50 individuals on a permanent basis must permit an employee who has been employed by the employer for more than 52 consecutive weeks and who has worked for the employer for at least 1,000 hours during the preceding 52 weeks to take six weeks of family leave in a 12-month period and two weeks of medical leave in a 12-month period. Family leave may be taken for the birth or adoptive placement of a new child or to care for a child, spouse, or parent who has a serious health condition. Medical leave may be taken when the employee has a serious health condition that makes the employee unable to perform the employee's employment duties. An employee is not entitled to receive wages or salary while taking family or medical leave, but may substitute, for portions of family or medical leave, other types of paid or unpaid leave provided by the employer.

**2011-2012 Session Legislation**

This bill states that the provision of family and medical leave that is uniform throughout the state is a matter of statewide concern and that it would be logically inconsistent with, would defeat the purpose of, and would go against the spirit of the state family and medical leave law for a city, village, town, or county to enact an ordinance that requires employers to provide employees with leave from employment for any of the following reasons:

1. Because the employee has a physical or mental illness, injury, impairment, or condition (health condition); is in need of medical diagnosis, care, or treatment of a health condition; or is in need of preventive medical care.
2. To care for a family member who has a health condition; who is in need of medical diagnosis, care, or treatment of a health condition; or who is in need of preventive medical care. The bill defines "family member" as a spouse or domestic partner of the employee; a parent, child, sibling, including a foster sibling, brother-in-law, sister-in-law, grandparent,

stepgrandparent, or grandchild of an employee or of an employee's spouse or domestic partner; or any other person who is related by blood, marriage, or adoption to an employee or to an employee's spouse or domestic partner and whose close association with the employee, spouse, or domestic partner makes the person the equivalent of a family member of the employee, spouse, or domestic partner.

3. Because the employee's absence from work is necessary in order for the employee to do any of the following:
  - a. Seek medical attention or obtain psychological or other counseling for the employee or a family member to recover from any health condition caused by domestic abuse, sexual abuse, or stalking.
  - b. Obtain services for the employee or a family member from an organization that provides services to victims of domestic abuse, sexual abuse, or stalking.
  - c. Relocate the residence of the employee or of a family member due to domestic abuse, sexual abuse, or stalking.
  - d. Initiate, prepare for, or testify, assist, or otherwise participate in any civil or criminal action or proceeding relating to domestic abuse, sexual abuse, or stalking.
4. To deal with any other family, medical, or health issues of the employee or of a family member.

Therefore, the bill requires the state family and medical leave law to be construed as an enactment of statewide concern for the purpose of providing family and medical leave that is uniform throughout the state. As such, the bill prohibits a city, village, town, or county from enacting and administering an ordinance requiring an employer to provide employees with leave from employment, paid or unpaid, for any of the reasons specified in the bill and provides that a city, village, town, or county ordinance requiring leave from employment for those reasons that is in effect on the effective date of the bill is void.

#### **WMC Position**

WMC supports legislation that would conform the Wisconsin Family and Medical Leave Act with the Federal Family and Medical Leave Act. Further, WMC supports this legislation that would establish one state-wide consistent policy on family and medical leave related laws and regulations by preempting local ordinances relating to family and medical leave.

**Summerfield, Craig**

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**From:** Sen. Wanggaard  
**Sent:** Tuesday, March 01, 2011 5:23 PM  
**To:** Summerfield, Craig  
**Subject:** FW: [Possible SPAM] Senate Bill 23  
**Importance:** Low

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**From:** Witkowski, Carole [mailto:cwitkowski@Batteriesplus.com]  
**Sent:** Tuesday, March 01, 2011 3:27 PM  
**To:** Sen. Wanggaard; sen.growthman@legis.wisconsin.gov; Sen. Lazich; Sen. Coggs; Sen. Wirch; Sen. Fitzgerald  
**Cc:** Sen. Kedzie  
**Subject:** [Possible SPAM] Senate Bill 23  
**Importance:** Low

I am writing in support of Senate Bill 23 that has been co-authored by Senator Leah Vukmir and Representative Chris Kapenga, and has been referred to the Senate Committee on Labor, Public Safety and Urban Affairs. I urge you to move this Bill forward to a vote as soon as you can.

Our Wisconsin-based company has employees spread over several cities in the following counties: Milwaukee, Waukesha, Rock, Racine, Kenosha, Dane, Brown, Outagamie, Fond du Lac, and Sheboygan. It is extremely important to the company to be able to limit administration of sick/family leave to State law. We already have the complication of managing the differences and contradictions between State and Federal leave laws. If a county, city or town were allowed to enact an ordinance which allows for even greater leave time, we would take on additional administrative burden. Of course, additional administrative burden means additional cost.

We would also face the potential of certain employees feeling that they were not treated fairly because individuals at one store are provided different time off/leave than at their location. This could potentially cause "bad blood" between store employees – especially if they share an associate (which is common in some areas).

I encourage the State Senate to ensure a uniform statewide standard of time off through Senate Bill 23.

**Carole J. Witkowski**  
**Vice President Human Resources**

**BatteriesPlus. **

925 Walnut Ridge Dr.  
 Hartland WI, 53029  
 Office: 262-912-3124  
 Fax: 262-369-3854  
 cwitkowski@batteriesplus.com

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TO: Wisconsin State Senators  
FROM: Delora Newton  
Executive Vice President, Greater Madison Chamber of Commerce  
DATE: March 2, 2011  
RE: Senate Bill 23

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The Greater Madison Chamber of Commerce (GMCC) Board of Directors supports Senate Bill 23 which would preempt the ability of local governments to require a private employer to offer paid or unpaid leave in excess of state family and medical leave laws.

In September 2005, the City of Madison Common Council introduced an ordinance that would have required private employers to pay employees up to nine sick days per year if the following conditions were met:

- The business employed five or more employees
- The employee worked at least 12 hours per week
- The employee had worked at least 60 days

The ordinance specified that each qualifying employee would earn one hour of sick leave for every 30 hours worked in the City of Madison. The provision not only applied to businesses located within the City of Madison, it also applied to companies located outside those borders if employees travelled into the City of Madison for business reasons.

Hundreds of GMCC small business members led the nine-month fight to successfully defeat the ordinance. These businesses value their employees and most already offer a limited number of sick days per year. Other businesses did not have sufficient cash flow to offer additional benefits to employees. If the attempt to mandate paid sick leave would have passed, these employers would have been forced to cut the cost of providing other benefits such as payment towards health care premiums, dental insurance, disability policies, 401K plans or wage increases so they could offer nine paid sick days instead. These employers and their employees do not believe it is appropriate for a local government to dictate that one employee benefit – paid sick leave – should be uniformly valued above other benefit options.

The GMCC believes that wage, benefit and medical leave laws should be uniform across the state to avoid creating economic islands and assessing additional operating costs on businesses. We ask you to support passage of Senate Bill 23.



Representative Kapenga

Testimony outline for the Senate Public Hearing on Wednesday, March 2, 2011 to the Committee on Labor, Public Safety, and Urban Affairs.

**RE: Senate Bill 23 – preemption of city , village, town, or county ordinances requiring employers to provide employees with leave from employment to deal with family, medical, or health issues.**

Our goal in this state is to create a business environment that creates more employment. Employers want stability, consistency and predictability. They also want freedom to operate their business in a way that will allow them to be competitive, which leads to profitability, growth and hiring. This bill will help to ensure:

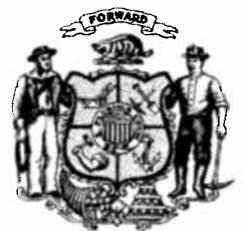
1. Businesses in Wisconsin have uniform laws in place on employment relations (consistency).
2. Businesses in Milwaukee, and all other areas of the state, are given the freedom to run their business in a way they feel is best, not the government. A business is private property. This law allowed the government to intrude into private enterprise at a new level by telling that business owner how to run the business. It has nothing to do with justice or fairness. An employer has the right to specify what his compensation package will be to employees. If they are not happy with the offer they do not have to accept it. This is a fundamental free market principle.
3. Businesses outside of Wisconsin do not see this overreaching regulation as a representation of the state as a whole, thus the statewide concern. Because Milwaukee is the largest city in the state, it has a significant influence on the tone our state projects to outside companies who may be looking to locate in the state.

This law would have done one of two things:

1. Drive businesses out of business or out of the city, which means the workers would no longer have to worry about sick days.
2. Create unnecessary “red tape” - if businesses have the flexibility they would have changed their time off policy to get around the regulation. We then have another onerous law on the books that creates more useless red tape, compounding the already trouble business environment that has been created in this state.



# WISCONSIN STATE LEGISLATURE





207 E Buffalo Street, Suite 211  
Milwaukee, WI 53202  
(414) 431-0844  
bravo@familyvaluesatwork.org

Testimony before the Wisconsin Senate Committee on Labor, Public Safety and Urban Affairs  
Hearing on SB 23  
Ellen Bravo  
Executive Director  
Family Values @ Work Consortium  
March 2, 2011

Thank you, members of the Committee on Labor, Public Safety and Urban Affairs for the opportunity to testify today.

My name is Ellen Bravo. I represent Family Values @ Work, a national network of cities and states advocating for paid sick days and other policies that support families' economic success.

Twenty-three years ago, as then-director of Milwaukee 9to5, I was part of a broad coalition which worked to win WI Family and Medical Leave. We were well aware at the time that FMLA would be vital to those caring for new children or for a serious medical condition. But we also understood its limitations in failing to address the need for short-term leave for minor illnesses and preventative health care.

While most children, thankfully, do not suffer from serious long-term health problems, they all get colds and flus. But taking a day off here and there for these regularly-occurring ailments is not covered by FMLA.

Likewise, caring for a parent with a stroke or heart attack is covered by FMLA, but getting our loved ones to the doctor to prevent or diagnose these conditions is not. Neither are the diagnostic appointments that help determine whether a child has autism or learning disabilities.

Preventative and diagnostic care, of course, are vital and smart components of family and public policy. They help people stay healthy or heal more quickly. They cut down on lost time from work, reduce health care costs.

Voters in Milwaukee passed a paid sick days ordinance so that working people could take care of themselves and their family when they are sick and to get to regular doctor visits to keep them healthy. In fact, 70% of voters in Milwaukee voted for the law in a ballot referendum. It was a small step with a big impact on tens of thousands of workers and their families.

Since the ordinance passed in 2008, new research on similar laws in other cities shows significant benefits for workers and minimal impact on businesses. A study last month of San Francisco's paid sick days law shows business concerns about job loss were unfounded, with six in seven employers saying that paid sick days have had no negative effect on profitability and

two-thirds of employers surveyed supporting the law. Other studies have shown that employees are healthier and more productive when they have access to paid sick days.

Proponents of SB-23 claim we need a uniform state-wide family and medical leave policy (FMLA) while overlooking the critical need for short-term time off that is addressed by the Milwaukee paid sick day law. The state and federal FMLA laws that have been in effect since 1988 and 1993, respectively, provide a policy for longer-term sick leave, but do not cover time off for routine illness or medical needs related to diagnosis, preventative care, or to seek services to deal with the horror of domestic or sexual assault.

IF SB 23 passes, Wisconsin families would be able to rely only on long-term leave covered under FMLA. So you would only be able to take time off to care for your dad as he recovers from a heart attack, but not to get him to the doctor's appointment that may have diagnosed and prevented the attack.

Adding insult to injury, SB 23 takes control out of the hands of Wisconsin voters and puts it squarely in the halls of the Capitol. Milwaukee voters overwhelmingly determined paid sick day legislation was important to their community, and their voices – their votes – should not be disregarded. Nor should we pass a law that would set a precedent in allowing state government to undermine local governance.

SB 23 is a slap in the face to the voters in Milwaukee and everywhere in this state. It strips voters of the right to have a voice in the area where we live.

Parents, teachers, business owners, public health officials, faith leaders, unions and advocates for children and seniors participate in Milwaukee's coalition and in that in each of the coalitions that are part of Family Values @ Work. They become engaged because they understand that a minimum standard for paid sick days levels the playing field for business, boosts productivity and profits, improves individual and public health, and adds to the chances of success for our children.

The Milwaukee paid sick days law - a win for working families and a win for business – is the type of legislation that we should be looking to replicate and promote, not one which should be repealed today.

Governor Walker told us he would honor families. Yet SB 23 will force our families to make the impossible decision to stay home with their kids when they're sick, or put food on the table for them. He promised to add jobs, yet this bill will help kill jobs for the working families who are already struggling to make ends meet.

I urge you to reject this bill. Speak up for Wisconsin families.

Thank you for your consideration.



# Testimony



307 South Paterson Street, Suite 1  
Madison, Wisconsin 53703  
Phone: (608) 255-0539 Fax: (608) 255-3560

**To:** Members of the Committee on Labor, Public Safety, and Urban Affairs  
**From:** Tony Gibart, Policy Coordinator, Wisconsin Coalition Against Domestic Violence  
**Date:** Wednesday, March 2, 2011  
**Re:** Senate Bill 23

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Chairman Wanggaard and members of the Committee, thank you for the opportunity to provide testimony today. My name is Tony Gibart, and I represent the Wisconsin Coalition Against Domestic Violence (WCADV). WCADV is the statewide group that represents local domestic violence victim service providers and survivors across the state. Senate Bill 23 is a matter of great concern for my organization and our members. WCADV and our member organizations were active in supporting and defending the Milwaukee Sick Pay Ordinance because the ordinance provides victims of domestic violence, sexual assault and stalking paid time off from work to take critical preventive action to address their situations. Because Senate Bill 23 would preempt these protections for victims in Milwaukee and prohibit other communities from enacting these policies, WCADV opposes Senate Bill 23.

Senate Bill 23 would prohibit local governments from enacting ordinances that provide victims of domestic violence, sexual assault or stalking leave to do following:

- Seek medical attention or obtain psychological or other counseling
- Obtain services from our local victim service providers
- Relocate
- Initiate, prepare for, or testify, assist, or otherwise participate in any civil or criminal action or proceeding

Yet, these are the activities that have been shown to reduce and eliminate domestic and sexual violence. One survey found that taking legal action, relocating or working with an advocate significantly increased the chances a woman would leave an abusive relationship, which in turn improved her physical health.<sup>1</sup> Another study documented a significant decrease in injury, need for medical care and sexual abuse for women who obtained an injunction against their abuser.<sup>2</sup> Other studies in the Journal of the American Medical Association and American Journal of Public Health have found that permanent restraining orders reduce physical abuse<sup>3</sup> and that a victim's decision to take legal action is associated with a "significant and rapid decline" in violence.<sup>4</sup> Research also indicates that relocation and obtaining restraining orders are key to

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<sup>1</sup> Laura A. McCloskey, *Assessing Intimate Partner Violence in Health Care Settings Leads to a Women's Receipt of Interventions and Improved Health*, 121 Public Health Reports 435 (2006).

<sup>2</sup> Victoria Holt et al., *Do Protective Orders Affect the Likelihood of Future Partner Violence and Injury?*, 24 Am. J. Preventative Medicine 16 (2003).

<sup>3</sup> Victoria Holt et al., *Civil Protection Orders and Risk of Subsequent Police-Reported Violence*, 288 JAMA 589 (2002).

<sup>4</sup> Judith McFarlane, *Protection Orders and Intimate Partner Violence: An 18-month Study of 150 Black, Hispanic and White Women*, 94 Am. J. Public Health 613, 617 (2004).

preventing rape and stalking. Sixty percent of sexual assaults in 2005 occurred at the victim's home.<sup>5</sup> As a result, many sexual assault victims need to move to be safe.<sup>6</sup> One in seven stalking victims reported that they moved as a result of the stalking.<sup>7</sup>

Local units of government should be permitted to provide leave for domestic and sexual violence victims, because without these protections, many victims become trapped in a mutually reinforcing cycle of abuse and financial insecurity. Indeed, victims face an intractable situation: taking proven preventive action involves the loss of income due to missed work, but escaping and successfully living free from abuse requires financial independence and security.

Domestic and sexual violence thrive when victims have few financial resources for escape. Financial strain and poverty are associated with higher rates of abuse.<sup>8</sup> An inability to survive financially without the abuser is the most common reason abused women give for staying in violent relationships,<sup>9</sup> and an independent source of income is the single most significant indicator that a woman will permanently leave an abuser.<sup>10</sup>

Approximately, one-quarter to one-half of domestic violence victims report losing their jobs as a result of abuse.<sup>11</sup> Rape victims also face barriers to employment; fifty percent of these victims lose their jobs in the aftermath of the rape.<sup>12</sup> In one year, 296,000 stalking victims lost pay from work; critically, about one in eight lost time from work because of fear for their safety or to pursue legal action, and seven percent lost time from work for relocation or fixing damaged property.<sup>13</sup>

Victims know they need income to survive without the abuser. They also experience the effects of abuse on their families, health and employment. Although advocates and researchers have identified steps that can end the abuse and set victims on a path to economic stability and improved health, the utilization of these processes requires the expenditure of time and money. Surveys show work absences and loss of income are reasons victims do not follow through in obtaining injunctions.<sup>14</sup> One study found that urban victims spend, on average, eight hours obtaining a restraining order.<sup>15</sup> Obviously, relocation requires time and financial resources. Without paid leave, some victims remain trapped in the cycle of abuse and financial insecurity.

In closing, I would like to focus on Milwaukee—the city whose voters chose by an overwhelming majority to enact a sick leave ordinance aimed to prevent domestic and sexual violence. In 2006, law enforcement agencies handled 8,347 domestic violence incidents in Milwaukee County.<sup>16</sup> The Milwaukee Police Department responds to approximately 1,000 reports of sexual assault each year.<sup>17</sup> Domestic violence is a leading cause of homicide in Milwaukee. In 2008, almost one-quarter of homicides were committed by a

<sup>5</sup> Lawrence A. Greenfeld, *Sex Offenses and Offenders* 3 (U.S. Dep't of Justice) (1997), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/soo.pdf>.

<sup>6</sup> Martha R. Burt & Bonnie L. Katz, *Rape, Robbery, and Burglary: Responses to Actual and Feared Victimization, with Special Focus on Women and the Elderly*, 10 *Victimology* 325, 330 (1985).

<sup>7</sup> Katrina Baum et al., *Bureau of Justice Statistics Special Report: Stalking Victimization in the United States* (U.S. Dep't of Justice) (2009), available at [http://www.caepv.org/membercenter/files/stalking\\_victimization\\_in\\_the\\_us\\_%28january\\_2009%29.pdf](http://www.caepv.org/membercenter/files/stalking_victimization_in_the_us_%28january_2009%29.pdf).

<sup>8</sup> Michael L. Benson & Greer L. Fox, *Economic Distress, Community Context and Intimate Violence: An Application and Extension of Social Disorganization Theory, Final Report* (National Institute of Justice) (2001), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/193434.pdf>.

<sup>9</sup> Deborah A. Widiss, *Domestic Violence and the Workplace: The Explosion of State Legislation and the Need for a Comprehensive Strategy*, 35 *Fla. St. U. L. Rev.* 669, 678 (2008).

<sup>10</sup> Massachusetts Governor's Commission on Domestic Violence, *The Economic Impacts of Domestic Violence: A Blueprint for Action 2* (2002), available at [http://www.janedoe.org/know/voices\\_of\\_survival.pdf](http://www.janedoe.org/know/voices_of_survival.pdf).

<sup>11</sup> Melanie Shepard & Ellen Pence, *The Effects of Battering on the Employment Status of Women*, 3 *Affilia* 58 (1988); Jessica Pearson et al., *Child Support and Domestic Violence: The Victims Speak Out* (Center for Policy Research) (1998).

<sup>12</sup> 703 S. Rep. No. 103-138, at 54 & n. 69 (1993) (citing Elizabeth M. Ellis et al., *An Assessment of Long Term Reaction to Rape*, 90 *J. Abnormal Psychology* 263, 264 (1981)).

<sup>13</sup> Katrina Baum et al., *Bureau of Justice Statistics Special Report: Stalking Victimization in the United States* (U.S. Dep't of Justice) (2009).

<sup>14</sup> TK Logan et al., *The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses & Costs* 91 (National Institute of Justice 2009); McFarlane, *supra* note 16, at 615.

<sup>15</sup> Logan at 94.

<sup>16</sup> Wisconsin Department of Justice, *Domestic Abuse Incident Report 11* (2007), available at <http://www.doj.state.wi.us/cvs/documents/DAR/2006DAR/2006DAR.pdf>.

<sup>17</sup> Wisconsin Office of Justice Assistance, *Sexual Assaults in Wisconsin 2004 Revised 27* (2004), available at <http://oja.state.wi.us/docview.asp?docid=11165&locid=97>.

family member or domestic partner of the victim.<sup>18</sup> The Milwaukee Police Chief has called this large percentage “a disturbing trend” and “a communitywide problem.”<sup>19</sup> And, Mayor Barrett highlighted domestic violence homicides as a key public safety problem in his 2011 State of the City address.

Domestic and sexual violence are not problems that are unique to Milwaukee, but Milwaukee's citizens did choose to provide victims with workplace protections that allow them to take steps necessary to address these crimes and reduce violence. I ask that you uphold the right of Milwaukee voters and citizens in other communities to enact similar victim safety measures. Thank you.

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### **Victim Statement Regarding the Importance of Sick Leave**

While my abuser threatened my life and I repeatedly hit roadblocks with the legal system, I also lost my job after my abuser harassed me at work and I came to work unable to hide the black eye my abuser gave me, because I needed to work and sick or safe time was not an option for me. The abuse I endured was not only physical and emotional in nature, it also included the threat and use of gun violence to myself, my family, my child, and the community in which I was at any given time. Domestic violence is not a private or personal issue, and it doesn't just impact one person, or race, or class of persons.

I saw the effects of witnessing violence through my children and saw it impact them mentally, emotionally, and academically, in their ability to succeed in school. This led me to seek out services and resources to help me make positive changes for myself, my children, and my community. This process took time, a commitment to court proceedings to see justice, and the ability to find services to help me and my family find safety and enough hope to heal

I can make valuable contributions by sharing my experiences and insight as a survivor of domestic violence. However, without access to childcare, transportation, livable wages, or health care, all basic needs I can provide for my family when I have secure employment and a workplace that cares about my safety and that of all its workers, it is difficult to plan ahead or succeed in long-term goals. Having no option to take a day off work to seek safety services, to attend vital court proceedings, to seek medical treatment after a physical assault, or ensure my children can seek counseling to heal from trauma, not only puts domestic violence victims at further risk, but it poses a threat to the wellbeing to our communities and sends the message to victims that they are indeed, alone.

### **A Survivor in Milwaukee**

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<sup>18</sup> Ryan Haggerty, *Domestic Violence Killings Put State on Deadly Pace*, Milwaukee J. Sentinel, Sept. 29, 2009, available at <http://www.jsonline.com/news/wisconsin/62598252.html>.

<sup>19</sup> John Diedrich, *Milwaukee Crime Drops 17% in 2009*, Milwaukee J. Sentinel, Apr. 15, 2009, available at <http://www.jsonline.com/news/crime/43078197.html>.



# disabilityrights | WISCONSIN

To: Senator Vanggard, Chair; Senator Grothman, Vice-Chair, and Members of  
the Senate Labor, Public Safety and Urban Affairs Committee  
From: Jodi Hanna, Attorney, Disability Rights Wisconsin  
Date: March 2, 2011  
Subject: **Opposition to SB 23**

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Disability Rights Wisconsin (DRW) opposes Senate Bill 23, which preempts city, village, town or county ordinances requiring employers to provide employees with leave to deal with "family, medical or health issues."

Disability Rights Wisconsin is Wisconsin's designated protection and advocacy agency for people with disabilities. We serve people with all types of disabilities and ages throughout Wisconsin. Of relevance to this issue, we serve many employees with disabilities and employees who care for family members with disabilities. We know that family and medical leave is vitally important to our clients, who need these employment protections. Workers with multiple sclerosis use FMLA when necessary for treatments. Parents of children with disabilities use FMLA when necessary to care for their children's medical needs. These employment protections are vital to ensure that these employees are able to retain their jobs.

SB 23 harms people with disabilities because it prevents local governments from providing additional employment protections that compliment, not contradict, the Wisconsin Family and Medical Leave Act (FMLA) that will enable employees with disabilities and employees who care for family members with disabilities to retain their jobs and provide for their families through work. Further, SB 23 creates a new section containing a bewildering array of new and different terms that make the Wisconsin FMLA difficult to understand and will make it hard for workers with disabilities and workers with a family member with a disability to understand their leave rights under the state FMLA.

Local communities deserve the right to determine that additional protections are needed to maintain a stable economy and retain an experienced workforce. For example, Dane County Ordinances 18.21(2m) provides that county civil service employees be entitled to unpaid leave of a total of 26 workweeks in a 12 month period for reasons including birth of a child of the employee and in order to care for the child and because of placement of a child with the employee for adoption. Dane County has made the local decision to provide this additional leave, which compliments the state FMLA. It has multiple purposes, but advantage is that it protects new parents of a child with a disability who might need additional leave beyond the state FMLA to set up a care plan for a child with a disability, which might include training for the parents and hiring and obtaining experienced

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caretakers. This can be a new world for parents, and it is vital that they be able to focus on care for the child with a disability without fear of losing their jobs and means of supporting the child. The policy also promotes special needs adoptions, again by giving adoptive parents with the time needed to settle in their child with the knowledge that they will be returning to their jobs.

However, our biggest concern is that these changes go far beyond the stated purpose of ensuring uniformity and consistency statewide. The new section 103.10(1m), uses a definition of employee, employer and family member that is different from the definition used in the rest of the statute, and it introduces language related to domestic abuse, sexual abuse and stalking. Family, for the purposes of this section only, is very broad, including even "stepgrandparents," and those with a close association that makes the person a "family member equivalent." In addition, the bill refers to matters far beyond the current requirement of a "serious health condition which makes the employee unable to perform his or her employment duties," requiring only an undefined "health condition." The enumerated list of leave activities is also broader than the state FMLA, including the need for a medical diagnosis and preventative medical care. This section contains much that goes far beyond the bill's stated purpose of making the state family and medical leave to be uniform throughout the state. In addition, introduction of these new terms and new definitions will make it very difficult for employees and employers alike to understand their rights and responsibilities

**DRW opposes SB 23 because it prevents local communities from creating ordinances which provide additional protections consistent with the state FMLA that would benefit workers with disabilities and because the language is vague, introduces confusing, undefined terms and is much more sweeping than necessary to achieve its stated purpose, to achieve consistency with FMLA.**