



ANDRÉ JACQUE

STATE SENATOR • 1ST SENATE DISTRICT

Phone: (608) 266-3512

Fax: (608) 282-3541

Sen.Jacque@legis.wi.gov

State Capitol - P.O. Box 7882

Madison, WI 53707-7882

Testimony before the Senate Committee on Judiciary and Public Safety

State Senator André Jacque

May 6, 2021

Chairman Wanggaard and Fellow Committee Members,

Thank you for holding this hearing and the opportunity to testify before you today in support of Senate Bill 106.

Senate Bill 106 would allow courts in a family law action involving minor children to take judicial notice of records for specific convictions and restraining orders. The convictions must involve crimes subject to the domestic abuse surcharge, crimes against the convicted individual's child, or restraining orders that were ordered by the other parent.

The court is frequently unaware if a family has a history of domestic violence, even when a parent has a conviction or injunction that is publicly available in court records. Judges do not always ask a party about possible history of domestic violence, unless prompted by something in the case file. In addition, victims of domestic violence are often hesitant to speak up about past instances, so judges would be able to look at relevant records themselves.

Senate Bill 106 would allow judges to have all pertinent information when determining periods of physical placement of a child. This legislation is formally supported by the Wisconsin State Bar.

Senate Bill 106 is identical to 2019 Assembly Bill 100, which originated in the Legislative Council Study Committee on Child Placement and Support. That bill passed the full Assembly on a voice vote and Senate committee unanimously before the session ended prematurely, and the Assembly companion bill to SB 106 has already passed the Assembly Judiciary Committee unanimously this session.

Thank you for your consideration of Senate Bill 106.



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Senate Committee on Judiciary and Public Safety

Thursday, May 6, 2021

10:00 A.M.

Room 411 North State Capitol

Thank you for holding a hearing on Senate Bill 106 and allowing me to testify in favor of this legislation.

This bill originated in the Study Committee on Child Placement and Support, which I chaired.

The committee was tasked with reviewing current standards for determining physical placement and child support obligations.

The committee was composed of five legislators and eight public members, including a judge, court commissioner, private family law attorney, domestic violence advocate, fathers' rights activists, and county child support agency directors.

The diverse membership of the committee allowed us to hear from multiple stakeholders. It was important for us to receive feedback from both practitioners and parents that would be directly impacted by policy change – both of which were represented on the committee.

Last session, this bill passed via voice vote in the Assembly and received unanimous support during the Senate committee process. Unfortunately, due to COVID-19, it was not scheduled for a full Senate vote.

Senate Bill 106 would allow courts in a family law action involving minor children to take judicial notice of records for specific convictions and restraining orders. The convictions must involve crimes subject to domestic abuse surcharge, crimes against the convicted individual's child, or restraining orders that were ordered by the other parent.

Under current law, certain aspects of family law proceedings are modified if a court finds that a parent has engaged in a pattern or serious incident of interspousal battery or domestic abuse. If a guardian ad litem is appointed for a child in an action affecting the family, the guardian ad litem is required to investigate whether there is evidence that either parent engaged in interspousal battery or domestic abuse and must report the results of the investigation to the court.

The study committee heard testimony that the court is frequently unaware if a family has a history of domestic violence, even when a parent has a conviction or injunction that is publicly available in court records. Judges do not always ask a party about possible history of domestic violence, unless prompted by something in the case file. In addition, victims of domestic



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

violence are often hesitant to speak up about past instances, so judges would be able to look at records themselves.

This bill would allow judges to have all of the relevant information when determining periods of physical placement of a child.

Thank you for your time and attention and I ask that you support this legislation. I would be happy to answer any questions.

FAMILY LAW SECTION

To: Members, Senate Judiciary and Public Safety Committee
From: State Bar of Wisconsin Family Law Section Board
Date: May 6, 2021
Re: SB 106 – judicial notice of court records

The State Bar of Wisconsin's Family Law Section Board supports SB 106, legislation originally from the Legislative Council Study Committee on Child Placement and Support and now sponsored by Sen. Andre Jacque and Rep. Rob Brooks, related to judicial notice of court records.

The proposed changes would allow courts to take judicial notice of certain criminal convictions and injunctions involving domestic violence and child abuse when issues of child custody and placement are subjects of litigation in family court actions.

Currently, under the judicial ethical code issued by the Wisconsin Supreme Court, judges are prohibited from independently investigating facts in a case, but Wisconsin Statute Section 902.01 permits courts to take judicial notice of facts capable of accurate and ready determination from sources whose accuracy cannot reasonably be questioned. As proposed, SB 106 eliminates the potential conflict between those directives.

All too often, unrepresented litigants in family law actions are not aware of the importance a history of domestic abuse and child victimization plays in the court's determination of issues of custody and placement of minor children. In addition, victims of such offenses may be unwilling to recite that history in front of their abuser in open court.

Permitting judges to review existing court records they can access from the bench for prior incidents of domestic abuse, child abuse, child neglect and exploitation enables judges to make decisions on custody and placement consistent with the legislative directive that courts act in the best interests of minor children.

SB 106 was unanimously supported by the Assembly Judiciary Committee and identical legislation previously received unanimous support on the Assembly floor, as well as in Assembly and Senate committees. The Family Law Section respectfully requests your continued support of SB 106, and expresses gratitude to Sen. Andre Jacque, Rep. Rob Brooks, and the members of the Child Placement and Support Study Committee for their efforts on this legislation.

For more information, please do not hesitate to contact our Government Relations Coordinator, Lynne Davis, ldavis@wisbar.org or 608.852.3603.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.



STATE BAR OF WISCONSIN