



TODD NOVAK

STATE REPRESENTATIVE • 51ST ASSEMBLY DISTRICT

(608) 237-9151

Toll-Free: (888) 534-0051

Rep.Novak@legis.wi.gov

P.O. Box 8953

Madison, WI 53708-8953

DATE: Wednesday, November 2nd 2023

RE: Testimony on Senate Bill 524

TO: Senate Committee on Judiciary and Public Safety

FROM: State Representative Todd Novak

Thank you Chairman Wanggaard and members of the Senate Committee on the Judiciary and Public Safety for holding a public hearing on Senate Bill 524 (SB 524) relating to allowing Video Conferencing during certain civil proceedings.

Senator James and I drafted this bill after being approached by county officials regarding an issue they continue to experience in finding expert witnesses to appear during certain civil court proceedings.

Under state law, counties are responsible for a variety of services, including Chapter 48 (Children's Code), 51 (Mental Health), and 55 (Protective Services). Counties oversight of these key areas will often involve court proceedings.

During these proceedings, county agencies are required to present reports and recommendations from expert witnesses, such as a medical or a psychiatric professional. Under current law, in-person testimony is required if a party objects to testimony through the use of Video Conferencing Technology.

In rural counties, where expert witnesses may be travelling a commute of up to several hours, this creates issues with scheduling and expert availability, and delays the outcome of court proceedings.

We already know there is a shortage of medical and psychiatric professionals in Wisconsin. Forcing, in-person testimony only further exasperates this problem at the harm of the public.

Videoconferencing technology has been proven effective as a method for courts to utilize for court appearances. During the COVID-19 pandemic, the courts utilized this technology for almost all court proceedings. Some courts, still use this practice for some legal proceedings.

It is important to note that judges still have the discretion to weigh the merits of an objection when allowing the option for videoconferencing, and may still institute a requirement for in-person testimony. Our bill simply eliminates the requirement for in-person testimony.



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SB 524 eases the burden rural counties face, as well as limiting the impact the delays of waiting for an expert witness to appear in court have on sensitive court proceedings, often relating to the wellbeing and mental health of children and vulnerable members of our communities.

Thank you for your consideration.



November 2nd, 2023

Senator Wanggaard, Chair

Members of the Senate Committee on Judiciary and Public Safety

Testimony on 2023 Senate Bill 524

Relating to: the use of videoconferencing technology in certain civil actions (FE).

Thank you, Chairman Wanggaard and other members of the committee, for hearing my testimony on Senate Bill 524 today. In courtrooms across the state, videoconferencing has been steadily increasing due to the COVID-19 pandemic. While some circuit courts already utilize videoconferencing and video capabilities, SB 524 helps all WI circuit courtrooms to become more flexible with testimonies, reports, or evidence presentations to help mitigate any problems or delays.

Under current law, videoconferencing is allowable in pretrial, trial or fact-finding, or post-trial proceedings subject to the criteria and guidelines listed in statute. Also under the current system, a defendant (criminal cases) or a respondent (civil cases) in cases that could result in the loss of liberty or fundamental rights in respect to their children is allowed to object to the use of videoconferencing if they are entitled to be physically present in the courtroom for their proceedings; the court must uphold this objection. In all other proceedings where a defendant or respondent files an objection to the use of videoconferencing, the court has discretion on whether or not to sustain the objection based on the criteria laid out in statute, including but not limited to, the convenience of the parties and witnesses, if a cross examination is feasible, or if the physical presence of a witness is not possible after a diligent effort. This bill only requires the court to sustain an objection to videoconferencing usage that is made by a defendant in a case where they are entitled to attend in person, but not a respondent. Since it would not be required, the court will have to use its discretion and guidelines already determined in statute about whether or not to sustain an objection made by a respondent in any civil case, not just ones where they are entitled to attend in person.

As a law enforcement officer, I know how clogged the court system can get and how a delay in a trial can be fixed by something as simple as allowing witnesses to attend via video. For example, it provides flexibility for expert witnesses to still provide their expertise and testimony without having to carve time out of their day or take time off work to travel to the courthouse. Adopting videoconferencing and other forms of video capabilities will allow for a more smooth and efficient court system. By investing in this bill, we can work towards a more successful court system within Wisconsin. Thank you, and I will take any questions at this time.

Respectfully,

A handwritten signature in black ink, appearing to read "Jesse James".

Senator Jesse James

23rd Senate District

Sen.James@legis.wisconsin.gov



MEMORANDUM

TO: Honorable Members of the Senate Committee on Judiciary and Public Safety

FROM: Marcie Rainbolt, Government Affairs Associate

DATE: November 2, 2023

SUBJECT: Support of Senate Bill 524

Counties are responsible for the administration of a variety of services and programs under Chapters 48 (Children's Code), 51 (Mental Health) and 55 (Protective Services), many of which involve court proceedings. In several of the court proceedings, counties are required to present reports and recommendations from expert witnesses such as medical and psychiatric professionals.

Under current law, in-person testimony is automatically required if a party to a Chapter 48, 51, or 55 proceeding objects to testimony through videoconferencing technology at a trial or dispositional hearing.

The current statutory mandate requiring an expert witness to appear in-person in those proceedings where an objection is raised is unduly burdensome in rural counties where there is a shortage of qualified professionals able to evaluate the individual, draft a recommendation and testify as to the professional's findings. Videoconferencing technology has advanced to the point where a judge and jury are able to adequately evaluate witness credibility through remote means.

SB 524 would amend §885.60(2)(d) to give the court flexibility to allow expert witnesses the option to appear at trials and dispositional hearings through video conferencing technology even if a party objects. This will be helpful to counties who struggle to find expert witness willing to travel to appear in person as well as a cost savings to counties.

WCA respectfully requests your support of SB 524.