



# JESSIE RODRIGUEZ

STATE REPRESENTATIVE ★ 21<sup>ST</sup> ASSEMBLY DISTRICT

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**AB 634: Allowing a Court Commissioner to Address Stipulated Final  
Legal Separation Hearings  
Testimony of State Representative Jessie Rodriguez  
Assembly Committee on Family Law  
December 1, 2021**

Thank you Chairwoman Magnafici, Ranking Member Doyle, and members of the Assembly Committee on Family Law for the opportunity to testify on Assembly Bill 634 (AB 634), legislation that seeks to extend the authority of a court commissioner to preside over a final hearing in a fully stipulated action for legal separation.

Under current law, a circuit court commissioner may preside at and grant a fully agreed upon divorce, just as a circuit court judge can. However, by omission, current law does not allow court commissioners to preside at and grant a fully stipulated legal separation. Instead, only a judge can finalize legal separations. This requires an additional court proceeding, even in the case of legal separations that have been fully agreed upon by both parties.

AB 634 would extend the authority of a court commissioner to preside over a final hearing in an action for legal separation if both parties to the action state that the marital relationship is broken and that the parties have resolved all material issues.

One of the roles that a court commissioner holds for circuit court judges is addressing cases which are uncontested or stipulated. Current law allows court commissioners to address many such cases, including divorces in family actions. Legal separations address the same issues that are generally addressed in a divorce case: custody, placement, support issues, division of property, and other financial orders.

Extending the ability to preside over legal separations to court commissioners will result in more timely resolutions of legal separations, provide circuit courts with more time to concentrate on contested matters, and result in fewer hearings and lower costs to litigants.

I encourage your support for this legislation. Thank you for your time. I welcome any questions you may have.



**JOAN BALLWEG**

STATE SENATOR · 14<sup>TH</sup> SENATE DISTRICT

Assembly Bill 634: Allowing a Court Commissioner to Address Stipulated Final Legal Separation Hearings  
Testimony of State Senator Joan Ballweg  
Assembly Committee on Family Law  
December 1, 2021

Thank you, Chair Magnafici, and members of the committee for holding this public hearing.

Court commissioners are lawyers appointed by county circuit court judges who can exercise many functions of a judge including conducting hearings and making findings and recommendations. One of the roles they fill for a judge is presiding over cases which are uncontested, including divorce cases.

Assembly Bill 634 brings parity between a court commissioner's authority to preside at and grant fully a stipulated divorce and fully stipulated legal separations. Under current law, only a judge can finalize a legal separation, resulting in additional proceedings for the court and the litigants.

Divorces and legal separations are similar and often address the same issues, such as placement, financial support and division of property, except legal separations keep the marriage intact.

Authorizing court commissioners to finalize fully stipulated legal separations will provide our overwhelmed circuit courts more time to spend on contested cases and allow families to minimize the time and money they spend on the court process.

This legislation was drafted at the request of the State Bar of Wisconsin Family Law Board and is supported by End Domestic Abuse Wisconsin.

Thank you for your consideration of this legislation, and I am happy to answer any questions.

## FAMILY LAW SECTION

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To: Members, Assembly Family Law Committee  
From: Family Law Section, State Bar of Wisconsin  
Date: December 1, 2021  
Re: Support for AB 634 – court commissioners finalizing legal separations

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The State Bar of Wisconsin's Family Law Section Board requests your support of AB 634, modifying current statute to correct an oversight preventing court commissioners from finalizing stipulated (i.e. agreed upon) legal separations.

Presently, Ch. 757.69 allows a circuit court commissioner to preside at and grant a fully stipulated divorce, yet, by omission, does not allow the same of a fully stipulated legal separation, instead, requiring a judge to finalize the action in a separate, additional proceeding. AB 634 would allow court commissioners to finalize those matters.

Common practice among counties is to assign court commissioners to handle all divorce and legal separation matters prior to finalization. If a divorce is resolved and a stipulation is filed, addressing all issues (property, custody, placement, etc), the commissioner may grant the divorce. However, due to the omission of the words "legal separation" in statute, it is generally agreed that commissioners may not grant a stipulated legal separation, though the issues are identical to a stipulated divorce. That is, there is no discernible basis for differentiating between a stipulated divorce and a stipulated legal separation.

One of the roles that a court commissioner offers to circuit court judges is to address cases which are uncontested or stipulated. Presently the statute contemplates many such circumstances, including divorces in family actions. Legal separations address the same issues that are generally addressed in a divorce case: custody, placement, support issues, division of property and other financial orders. Further, the statute regarding judgments under Ch. 767 refers to both divorces and legal separations, together, in each sub-chapter suggesting that the initial legislation intending for the two pleadings to be addressed in a similar fashion. If AB 634 were enacted, the change would not only assist judges in freeing time on their often congested calendars to address other matters, but also save the parties attorney fees for the additional court hearing to finalize the legal separation.

Eliminating this redundancy will result in more timely resolutions of legal separations, provide circuit courts with more time to concentrate on contested matters, and provide fewer hearings and lower costs to litigants. For these reasons, the State Bar's Family Law section board seeks your support of AB 634.

For more information, please do not hesitate to contact our Government Relations Coordinator, Lynne Davis, [ldavis@wisbar.org](mailto:ldavis@wisbar.org) or 608.852.3603.

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*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.*



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