



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 Human Services, Children and Families

Senator André Jacque

February 22, 2021

Committee Members,

As we all know, domestic violence is a serious, devastating crime. It can be both difficult and dangerous to get out of an abusive relationship. In a domestic violence situation, things often escalate to a point at which the victim needs to immediately leave the abuser for the safety of the victim and that of their children. Once a victim in an abusive situation decides to leave, they need to move fast, as leaving is the most dangerous point in a domestic abuse situation.

Domestic violence victims often have limited financial resources, as their abusers may not allow them to work or control any finances. I am proud to author Senate Bill 67 with Representative Thiesfeldt and a broad bi-partisan coalition of legislators to protect domestic violence survivors from having to choose between not having a home and returning to an abuser.

Senate Bill 67 helps victims of domestic abuse and their children get to safety quickly by allowing survivors of domestic abuse to terminate their lease if they get a signed document confirming they are in imminent danger.

To make matters even more difficult, victims in domestic abuse situations often are subjected to severe trauma. This trauma can cause serious emotional, mental, and physical harm to a victim and their children. It is imperative we do what we can to ensure that victims are able to safely and quickly leave a dangerous situation.

Domestic violence is also deadly for law enforcement. A U.S. Department of Justice 2017 report showed that 29% of line-of-duty deaths responding to calls for service were related to domestic disputes.

Please join us in sponsoring this important piece of legislation that eliminates a crucial barrier for domestic violence victims and their children escaping abuse. I am happy to note that Senate Bill 67 is formally supported by End Domestic Abuse Wisconsin, Wisconsin Realtors Association, Coalition Against Sexual Assault, National Association of Social Workers- Wisconsin Chapter, and the City of Milwaukee.

Thank you for your consideration of Senate Bill 67.



TO: Honorable Members of the Senate Committee on Human Services, Children and Families

FROM: Amanda Merkwae, Legislative Advisor

DATE: February 22, 2021

SUBJECT: 2021 Senate Bill 24; 2021 Senate Bill 29; 2021 Senate Bill 67

Chair Jacque, Vice Chair Ballweg, and Members of the Committee:

Good Morning. My name is Amanda Merkwae, and I am the Legislative Advisor for the Department of Children and Families (DCF). Thank you for the opportunity to testify about this legislation related to DCF programs and the children and families we serve.

DCF is committed to the goal that all Wisconsin children and youth are safe and loved members of thriving families and communities. To support this goal, the Wisconsin child welfare system is guided by the following key principles that are also embodied in the federal Family First Prevention Services Act, which Wisconsin must implement before October 2021:

- **Prevention:** Child welfare increasingly focuses on prevention efforts and keeping children in their homes when possible.
- **Reunification:** The primary goal is to reunify a child with their birth family whenever it is safe to do so.
- **Permanence:** The child welfare system aims to transition children in out-of-home care (OHC) safely and quickly back with their family, whenever possible, or to another permanent home.
- **Relatives:** Familiar, caring adult relatives play an important part in children's lives as caregivers or ongoing supports and should be used as out-of-home placements whenever possible.

It is through this lens of these principles that the DCF reviewed the bills before the committee today and will be testifying for information regarding Senate Bill 24 and Senate Bill 29 and testifying in support of Senate Bill 67.

Senate Bill 24

SB24 prohibits the court at CHIPS disposition from placing a child in the home of a relative other than a parent or non-relative who has been convicted of any crime under Chapter 948, or who has pled no contest to such a crime, or has had a charge for such a crime dismissed or amended as a result of a plea agreement, unless the judge determines by clear and convincing evidence that the placement would be in the best interests of the child. SB24 also precludes an out-of-home placement provider from receiving a license if the background investigation shows that a licensee, employee, or nonclient resident of the out-of-home placement was charged with enumerated violations of Chapter 948 or a similar law of another state and such a charge was dismissed or amended as part of a plea agreement, or the person has pled no contest to one of those offenses.

Federal statutes and state law and standards provide a robust process for assuring the safety of children in court-ordered out-of-home placements under Chapter 48 or Chapter 938, including mandatory background checks prohibiting licensure, employment, non-client residency, or Kinship Care approval if the applicant has been convicted of certain offenses, unless a person has been found to be rehabilitated as allowed by law. State standards allow for a child welfare agency to place a child in a foster home or with a relative only when the required safety determinations have been made, and safety is continuously evaluated when children remain placed in out-of-home care.

Specifically, under the DCF standards, child welfare agencies must assess and confirm that a placement is safe for the child prior to placing the child, and at various points subsequent to the placement, and this obligation exists for all placement settings. This process, called Confirming Safe Environments, requires that the agency case worker do all of the following prior to placement:

- Conduct a home visit to assess and evaluate the safety of the placement setting and assist the caregiver in obtaining provisions needed for the care of the child;

- Complete a check of law enforcement records or conduct a Consolidated Court Automation Program (CCAP) check on all individuals seventeen years of age and older residing in the identified placement home;
- Conduct a reverse address Sex Offender Registry check;
- Conduct a check of eWISACWIS child protective services records on all individuals seventeen years of age and older residing in the identified placement home; and
- Analyze information from all other available sources, including all known offenses and convictions and records such as police reports, to evaluate the environment of the placement home, determine whether placement danger threats exist, and subsequently decide if the child can be placed in the home safely.

For licensed caregivers, in addition to the mandated background checks discussed earlier, foster care and adoption licensing agencies must conduct a home study called the Structured Analysis Family Evaluation (referred to as the SAFE Home Study), which is a robust, valid, and reliable tool used to determine if prospective foster and adoptive parents are fit and qualified to care for a child. Through the home study process, the person performing the assessment evaluates information garnered from interviews, recommendations, background checks, and home visits to make the final determination to approve or deny the person's application. Outside of background check bars for licensure or adoption approval, the agency is guided through the assessment tool to evaluate concerns that may be present in information and may inform training and support plans for the individual moving forward.

In recognition of this extensive framework for evaluating child safety in out-of-home care placements, DCF has the following concerns about SB24:

1. **Family and familiar placements.** If enacted, this bill would decrease available placement resources that do not present safety concerns, increase the number of children placed in unrelated and unfamiliar foster placements, and increase the number of children placed in congregate care settings. This runs contrary to the aims of the Family First Prevention Services Act to prevent family separation and resulting trauma and reduce placement of children with unfamiliar and institutional caregivers. The bill would also exacerbate barriers to placing children with individuals who meet the placement preferences under the Indian Child Welfare Act (ICWA) and the Wisconsin Indian Child Welfare Act (WICWA).

2. **Placement disruption.** Because Sections 1 – 4 of this bill only apply to placements ordered at the dispositional phase of a CHIPS case, there is potential to disrupt placements of children that are confirmed to be safe and otherwise permitted by the statute under a Temporary Physical Custody Order. Any placement disruption has an impact on the trauma experienced by children in care.
3. **Racial disproportionality.** Research shows that people of color interact with the criminal justice system—including charging and conviction—at a rate disproportionately higher than the general population. By including all crimes under Chapter 948, even if dismissed as the result of a plea agreement, the bill will have implications for racial disparities in the availability of placements.

Senate Bill 29

SB29 allows a parent to submit an affidavit of a disclaimer to their parental rights to a child without appearing in court to terminate their parental rights. DCF supports efforts to create an avenue for voluntary termination of parental rights that could reduce complexities and uncertainties in the court process for adoptive parents and help birth parents avoid possible trauma from appearing in court while assuring that this significant decision is informed and free from coercion.

DCF appreciates the changes made in the Senate Substitute Amendment to last session's version of this bill. In light of these changes, DCF has some outstanding concerns about the bill in its current form that we would like to raise for the committee:

1. **Compliance with Indian Child Welfare Act (ICWA) and the Wisconsin Indian Child Welfare Act (WICWA).** DCF recognizes the efforts that have already been made to address concerns related to ICWA and WICWA but wants to ensure that the language in the bill also aligns with language in the ICWA Regulations issued by the U.S. Department of Interior in 2016 that requires state courts to ask each case participant in a proceeding whether they know or have reason to know the child is an Indian child. If there is reason to know that the child is an Indian child, the Regulations require the court to treat the child as an Indian child unless and until it determines that the child is not an Indian child. To more closely align with these 2016 Regulations, DCF recommends the following:

- a. Page 2, line 4-5: change language to, "...under one year of age and if no participant in the court proceeding, including the birth parent or parents, knows or has reason to know that the child is an Indian child..."
 - b. Page 4, line 21: change the language to, "A statement regarding whether there is reason to know the child is an Indian child."
 - c. Page 7, lines 16-18: In addition to s.48.028, add language to reference ICWA and the 2016 ICWA Regulations.
 - d. Include language expressly requiring the court to review the affidavit(s) and make findings on the record that the birth parent or parents, as well as the other court participants, have stated they do not know or have reason to know that the child is an Indian child.
 - e. List the individuals who would be considered participants in the court proceeding or reference the provisions in s.48.41 regarding who must be summoned and receive notice of a TPR petition.
2. **Considerations for Minors.** Minors may be less aware of the full ramifications of a decision to voluntarily terminate parental rights and are particularly vulnerable to coercion or misinformation. DCF appreciates the requirement that a guardian ad litem (GAL) be appointed for minor parents interested in utilizing the out-of-court affidavit process and that they be offered legal counseling. In recognition of the magnitude of the decision, DCF believes the rights of a minor in an out-of-court disclaimer process could be strengthened by the appointment of counsel.
 3. **Timeframes.** Due to the significance of the decision to disclaim parental rights, DCF recommends that the timeframe in which a birth parent may withdraw the affidavit for any reason be extended to at least 72 hours.
 4. **Procedural Clarity.** The bill provides that a parent may file the affidavit of disclaimer of parental rights with the court; however, provisions explicitly outlining any required court procedures prior to and after the filing of this affidavit could eliminate potential confusion on behalf of courts implementing this new process.

Senate Bill 67

SB67 enhances a critical protection for survivors of domestic violence and their children by expanding the types of documentation permitted to provide a landlord with written notice to terminate a tenancy in a residential lease. Under current law, a tenant must provide a certified copy of injunction orders, criminal complaints, or bail conditions along with the notice to the landlord. With this bill, an additional type of documentation is allowed— a form to be developed by DCF containing a written statement signed by a social worker, victim advocate, or child victim advocate who has a reasonable basis to believe that the tenant is a victim of domestic violence, sexual assault, or stalking and has a fear of imminent violence. This bill also contains important confidentiality provisions to ensure the safety of those utilizing this procedure.

Many victims of domestic violence, sexual assault, or stalking do not seek involvement with the criminal legal system or choose to obtain an injunction due to fear that violence will escalate or distrust of systems based on unsupportive past experiences, but may instead seek the services of a trusted victim advocate. This is particularly true of victims from marginalized groups such as immigrants and refugees, communities of color, people with disabilities, and the LGBTQ community.

Considering the profound emotional and social impact that exposure to domestic violence has on children, DCF supports SB67 to allow more victims of interpersonal violence to obtain this needed relief for their safety and that of their children.

testimony



To: Members of the Senate Committee on
Human Services, Children and Families
Date: February 22, 2021
From: Jenna Gormal, Director of Public Policy and Systems Change
Re: Support of SB 67

End Domestic Abuse WI
1400 E Washington Ave., Suite 227
Madison, Wisconsin 53703
(608) 237-3985
jennag@endabusewi.org

Chairperson Jacque and Members of the Committee, thank you for the opportunity to provide testimony in support of SB 67, relating to terminating a tenancy for fear of imminent violence. My name is Jenna Gormal, Director of Public Policy and Systems Change, and I represent End Domestic Abuse Wisconsin (End Abuse), the statewide voice for survivors of domestic violence and the membership organization representing local domestic violence victim service providers in all of Wisconsin's 72 counties. Survivors of violence across the state highlight housing issues as the most common barrier to safety. Indeed, "Housing instability is four times more likely for women who have experienced DV compared to other women¹. It is for this reason that End Abuse supports the legislation before you today.

Under current law, a survivor can terminate their tenancy if they face an imminent threat of serious physical harm from another person **only** if they provide the landlord with written notice and a certified copy of certain injunction orders, criminal complaints, or bail conditions related to the person causing them harm. In talking with survivors and advocates across the state, we have found that a significant number of survivors choose **not** to obtain such documents as they fear doing so would anger their abuser, endangering them and their children further at an already highly dangerous time. During my five years working at a local domestic violence program here in Madison, it was part of my job to talk through the potentially dangerous consequences of seeking a restraining order, so that each survivor could make an informed decision of the best route to safety, given their unique situation. Countless survivors I worked with felt that pursuing a restraining order would enrage their partner further and avoided the legal system entirely.

Every year, End Abuse releases a homicide report² detailing the grim reality of domestic abuse in our state. Of the 56 domestic violence homicide victims in 2019, at least 56% were killed after the relationship ended or when one person in the relationship was taking steps to end the relationship. This figure demonstrates that leaving does not equate to safety. This bill would eliminate a significant barrier to safety by allowing survivors to terminate a lease without becoming entangled in the potentially negative consequences of pursuing relief through the criminal justice system.

¹ <https://safehousingpartnerships.org/sites/default/files/2017-06/Sullivan-Olsen-Adapting%20the%20Housing%20First%20Model%20for%20DV%20Survivors-6-2017.pdf>

² https://s3-us-east-2.amazonaws.com/edaw-webinars/wp-content/uploads/2020/09/24101634/FINAL_2019-Wisconsin-Domestic-Violence-Homicide-Report_revised_9_21_2020.pdf

One of the most significant barriers to obtaining housing for survivors of violence, is having an eviction on record related to the violence they experience. Many survivors flee their homes with their children due to imminent threat of violence and do not have the necessary documentation to 'prove' that they are in danger. End Abuse conducted a Housing Research Project³ where over 80% of Wisconsin victim advocates reported working with clients who had been evicted due to domestic violence.

While many survivors choose not to engage in the criminal legal system for the reasons outlined, they often do seek support from victim service providers and social workers. Victim service providers and social workers receive a great deal of training and intimately understand the dynamics and dangers of domestic violence. As a result, they are uniquely positioned to provide a credible account of imminent threat of violence.

In the wake of COVID-19, international reporting has referred to domestic violence as a "shadow pandemic" due to an increase in domestic violence incidents resulting from loss of income, isolation, and being in an enclosed space with an abusive partner. These stressors put victims and their children at a higher risk of being murdered by their abusers. In these particularly challenging times, domestic violence requires increased awareness and an urgent response. This legislation is an important step toward ensuring the safety of survivors and their children.

If you have any questions about End Domestic Abuse Wisconsin's position on this issue, please contact me at 608.237.3985 or jennag@endabusewi.org.

³ <https://s3-us-east-2.amazonaws.com/edaw-webinars/wp-content/uploads/2020/01/16221022/Housing-Research-Project.pdf>



WISCONSIN COALITION AGAINST SEXUAL ASSAULT

Testimony

To: Members of the Senate Committee on Human Services, Children, and Families
From: Ian Henderson, Policy and Systems Director (WCASA)
Date: February 18, 2021
Re: Senate Bill 67
Position: Support

The Wisconsin Coalition Against Sexual Assault (WCASA) appreciates the opportunity to offer this written testimony for your consideration. WCASA is a hybrid organization: functioning both to support member Sexual Assault Service Providers (SASPs), while advancing the sexual assault movement in the state and nationally.

WCASA thanks Committee Chair Jacque for his leadership on this bill and for holding a committee hearing today. We would also like to thank the other leading sponsors of the bill, Senator Taylor and Representatives Thiesfeldt and Bowen for their leadership on this legislation in both houses. Additionally, WCASA appreciates the bipartisan list of over 20 other cosponsors of Senate Bill 67/Assembly Bill 58.

SB 67 expands existing law by creating a mechanism for sexual assault survivors to terminate their tenancy if they or their child fears imminent violence and faces an imminent threat of serious physical harm if they remain on the premises. Specifically, this legislation states that a sexual assault survivor may provide to their landlord a written statement from a victim advocate who has a reasonable basis to believe the tenant is a victim of sexual assault. For the reasons stated below, WCASA believes SB 67 not only strengthens victim safety, but also will enhance their long-term recovery by offering another option for terminating a tenancy prior to the end of their lease.

The majority of sexual assaults occur at or near a victim's residence.¹ Furthermore, sexual assault is perceived as a life-threatening experience by victims, and female victims are three times more likely to develop depression and six times more likely to develop Post Traumatic Stress Disorder (PTSD) when compared to women who have not experienced sexual assault.² When a sexual assault occurs at a victim's residence, there are not only heightened concerns for their safety, but also their home may be a constant reminder of the trauma they experienced. Not surprisingly, many survivors have a strong desire to relocate after they are sexually assaulted in their residences.

The current statute allowing sexual assault and domestic abuse survivors to terminate their tenancy was enacted in 2008. However, there are limitations with the existing statute, particularly as it relates to sexual assault victims. For example, a sexual assault victim must either obtain an injunction or a prosecutor must issue a criminal complaint against the perpetrator. Given that most sexual assault victims do not report to

¹ Bureau of Justice Statistics, Female Victims of Sexual Violence, 1994-2010. (2013). [Female Victims of Sexual Violence, 1994-2010 \(bjs.gov\)](#)

² Sexual and Lifetime Diagnosis of Psychiatric Disorders: Systematic Review and Meta-analysis. *Mayo Clin Proc.* (2010). Available at: [Chen.indd \(nih.gov\)](#)

law enforcement and even fewer result in an arrest or prosecution of the offender³, that leaves an injunction as the “best” option under current law. However, to obtain an injunction a survivor must confront the perpetrator in court and prove by a preponderance of the evidence that a sexual assault occurred. Furthermore, an injunction hearing is an adversarial process, whereby a sexual assault victim must submit to cross examination by either the perpetrator or their attorney.

As a result, SB 67 represents a significant improvement to existing law by enabling a survivor to utilize a statement from a victim advocate when providing notice to their landlord of their intent to terminate their tenancy. Victim advocates are highly trained professionals who have extensive experience working with sexual assault survivors. Advocates are also a key profession in many multi-disciplinary responses to sexual assault, including in the criminal justice, health care, and educational systems. This bill closes gaps in current law and will allow more sexual assault survivors to not only increase their safety, but also overcome a significant barrier to their healing by removing barriers to relocation. We also appreciate that this legislation addresses victim privacy concerns by preventing a landlord from disclosing information submitted by a victim when terminating their tenancy.

We thank you for your attention to this matter and for your efforts to remove barriers to safe housing for sexual assault survivors. If you have any questions, you can reach me at ianh@wcasa.org.

³ Lonsway, K.A. & Archambault, J. (2012). The “Justice Gap” for Sexual Assault Cases: Future Direction for Research and Reform. *Violence Against Women*.