Van H. Wanggaard
Wisconsin State Senator

**TESTIMONY ON SENATE BILL 836**

Thank you Senators for attending today's committee hearing on Senate Bill 836, which allows courts to place restrictions on juveniles prior to trial. I am pleased to offer this bill with my partner in bail, Representative Cindi Duchow.

As you are undoubtedly aware, judges can place bail conditions on individuals prior to trial. These are typically conditions such as no contact orders with victims or witnesses, requiring the defendant to stay in the jurisdiction, absolute sobriety, requiring an individual to maintain employment, etc. These pre-trial conditions are usually in addition to or in place of any monetary conditions that are placed on defendants.

Due to court practice and a loophole in state law, courts are not able to place pre-trial conditions on juveniles. Under Wisconsin law, pre-trial conditions of release can only be placed on juveniles that are "in custody." Of course, the overwhelming majority of juvenile are not being held "in custody" when they appear before a judge. Juveniles are typically released to their parents or guardians after their initial apprehension or detention, and then brought back to court. Because the juvenile is not in the court's custody, conditions of release cannot be placed on the juvenile.

Senate Bill 836 simply closes this loophole. The bill allows judges to place "reasonable restrictions…including travel, association with other persons, alcohol or drug use, and school attendance" to be enforced between the "fact-finding hearing" and trial. Or, essentially, the entire pre-trial process.

This is a common sense bill that fixes an unintentional mistake in our state law. I'm happy to answer any questions.

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State Capitol, P.O. Box 7882, Madison, WI 53707-7882 • (608) 266-1832 • Toll-free (866) 615-7510
E-Mail: Sen.Wanggaard@legis.wi.gov • SenatorWanggaard.com

# CINDI DUCHOW

STATE REPRESENTATIVE • 99th ASSEMBLY DISTRICT

(608) 266-3007
Toll-Free (888) 534-0099

Rep.Duchow@legis.wi.gov
RepDuchow.com
P.O. Box 8952
Madison, WI 53708-8952


**Senate Committee on Judiciary and Public Safety**
**Testimony on Senate Bill 836**
**Imposing Conditions on a Juvenile**
**January 11, 2024**

Thank you Mr. Chairman and members of the Committee for holding a public hearing on Senate Bill 836, relating to imposing conditions on a juvenile between a plea hearing and a fact-finding hearing or disposition hearing. I'd also like to thank Sen. Wanggaard for shepherding this through in the Senate. And finally, I'd like to thank Waukesha County District Attorney, Sue Opper, who brought this issue to our attention, and whose office has worked with us in crafting this language. I'm appreciative that her office is here in person to provide insight into how this bill would impact the juvenile justice system.

I'm sure we've all heard about judges setting conditions for release on defendants. An oversimplified example of this might be a judge saying to the defendant at their arraignment or initial appearance, "You're to have no contact with the victim, maintain absolute sobriety, and maintain gainful employment."

In Wisconsin's juvenile system, statutes only speak to those conditions being set when a juvenile is in custody. This accounts for about 10% of juvenile cases. However, statutes don't expressly permit judges to set conditions if a juvenile is brought to their court appearances by a parent or guardian in response to a summons. This is about 90% of all cases.

Despite statutes only speaking to the juveniles in custody, it's been common practice for years for judges to still set conditions on juveniles. However, over the last several months, juveniles in jurisdictions across Wisconsin have objected when judges or court commissioners attempt to place conditions on conduct. Juveniles have objected to even the most common-sense conditions, such as having no contact with the alleged victim, obeying all household rules, or even requirements to attend school.

Some judges have continued to set conditions, while some have stopped. Judges made an oath to uphold our laws, and should be empowered to impose conditions that set juveniles on the right track so they don't continue a life of crime.

This bill simply permits judges and court commissioners to impose reasonable conditions on juveniles who are not in custody, to match the current statutory language for juveniles in custody.

Judges have to be able to exercise some control over juvenile conduct prior to disposition. Whether someone is in custody at their first appearance or not is irrelevant, and this small statutory change simply continues a common practice and authority that most people assumed judges already had. The goal is to keep juveniles safe and accountable while becoming responsible members of society.

Thank you again for your time and consideration. With your permission Mr. Chairman, I would ask to defer questions until District Attorney Sue Opper and Assistant District Attorney Ted Szczupakieicz testify, and then we can all answer your questions as appropriate.

Wisconsin Department of Children and Families

Governor Tony Evers
Secretary Emilie Amundson
dcf.wisconsin.gov

TO: Chair Wanggaard, Vice-Chair Jacque and Honorable Members of the Senate Committee on Judiciary and Public Safety

FROM: Ragen Shapiro, Legislative Advisor
John Elliott, Administrator, Division of Safety and Permanence

DATE: January 11, 2024

SUBJECT: SB-836

The Department of Children and Families (DCF) appreciates the work of the Senate Committee on Judiciary and Public Safety to improve the lives of children and families across Wisconsin. DCF is sharing this memo for information only on SB-836.

Under this bill, the juvenile court would be able to set conditions for a youth in between a 'not-guilty' plea and the fact-finding hearing. Currently, Wisconsin statutes only permit judges to place conditions of release on youth subject to the court's jurisdiction if they are in custody (secure or non-secure). It is important to note, under the proposed legislation, the court could use its discretion to impose "reasonable restrictions" on a youth's conduct. No guidance has been offered to courts on what factors they should consider in deciding whether to impose restrictions.

There are concerns that additional, untargeted court conditions could **increase** youth justice system involvement and the potential for reoffending. Youth Justice research has shown that tailoring services towards a youth's underlying need is more likely to **reduce** re-offending behavior. Court conditions not tied to the underlying offense, such as requiring school attendance or complete sobriety, may be important to the youth's general well-being but they have not been tied to **reducing** re-offending. As a result, adding conditions that are not tied to the youth's underlying delinquent behavior, could result in **increased** court consequences to youth, pulling them deeper into system involvement. Deeper system involvement for youth has been documented to **increase** re-offending.

Wisconsin has been actively working as a system to improve the effectiveness of court ordered conditions (https://dcf.wisconsin.gov/files/publications/pdf/5587.pdf) In response to clear research on the need for tailored court conditions, DCF and the Children's Court Improvement Project (CCIP) have been engaging with jurisdictions around the state in partnership with county human service agencies and judicial and legal partners This work has aimed at better tailoring

dispositional orders (in both CPS and YJ cases), shifting away from lengthy and universal lists of conditions toward **strategic** conditions targeted at the central needs of youth and families. By introducing legislation that would open the door for courts to order conditions prior to disposition in a case, potentially without having information about an individual youth's needs, that the resulting court orders could continue a common trend of including a universal list of conditions that are not targeted toward the individual youth's identified needs.

Finally, it should be noted that the proposed bill does not specify who would be responsible for monitoring compliance with conditions or the process for imposing consequences. This could increase workloads for county youth justice professionals if they are responsible for monitoring and enforcement. If a youth violates their conditions pre-disposition, there is concern that this could result in more severe sanctions for youth, regardless of their underlying offense or risk-level and as outlined above, this has the potential to **increase** the risk of youth re-offending in the future.

DCF thanks the Committee for the time and attention to this important issue.



201 West Washington Avenue
P.O. Box 8916
Madison, WI 53708-8916

Phone: 608-422-7000
Fax: 608-422-7161