

Representative Bonnie L. Ladwig, Chair  
Childrens and Families Committee  
State Capitol Room 113 West  
P.O. Box 8952  
Madison, WI. 53708-8952

8/21/99

I am relieved that your committee is making every effort possible to protect the children of Wisconsin from what appears to be a politically motivated, insensitive and most likely destructive S.B. #107.

Can a bill involving the lives and welfare of children find a more inappropriate place for inclusion than in the budget bill? Is this making children pawns of the state such as existed in the Hitler era of history?

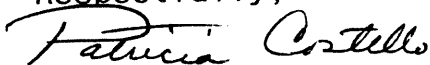
Perhaps this patent disregard for the well being of children of divorce is a consequence of the "Childrens Code" (Chapter 48, Wis. Statutes) which is indeed less protective than it ought to be. Since children have no voting power it is easy to overlook their needs in favor of parents' rights whether or not some of these same parents have an interest in or ability to assume the accompanying responsibility for children. I am totally supportive of parents' rights but know that in certain situations insuring the rights of the parent can overshadow the rights and needs of the child.

For more than forty years my career has focused on children and families here in our wonderful state. Historically our legislative body has been a national leader in its responsibility to children. Those legislators stood up for the rights of children and did not hide a bill involving children.

My career, especially in private practice, known as the Northshore Counseling Service spanned more than thirty years and included families of divorce. I believe that many of the families successfully meeting the needs of their children as they divorced would have been confused by this proposed law.

My hope is that our humane governor and our diligent legislative body will insure removal of S.B. #107 from the budget bill and that there will be a director to review current laws relating to children and prepare a "Bill of Rights" for children of divorce.

Respectfully,



Patricia Costello, M.S.W., ACSW  
5675 W. Brown Deer Rd., #203  
Milwaukee, WI. 53223  
(414) 355-9326



**DEWITT  
ROSS & STEVENS**<sup>sc.</sup>  
LAW FIRM

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August 26, 1999

Wisconsin Assembly Committee  
on Children and Families  
Committee on Family Law  
State Capitol  
Madison, WI 53702

Ladies and Gentlemen:

I write to support the statement being made by James Gardner at the public hearing by your joint committees on September 2, 1999.

I have been a lawyer since 1942 and have handled well over one hundred divorces in the many years of my practice. Each situation involving child custody is somewhat unique and the focus should be on what environment gives the child the best available opportunity to develop into a responsible, productive citizen under all of the circumstances.

Too often, the pride or selfishness of the parties or the desire to hurt the other party results in arrangements which may be the best that the parties can agree upon, but may be devastating to the child or children involved.

Judges handling divorce matters need to consider all of the factors involved in a given situation and need all of the professional assistance possible in endeavoring to arrive at a wise arrangement. It would be a mistake for legislative mandates to restrict the judge in using his or her best judgment in each situation.

Sincerely,

DEWITT ROSS & STEVENS s.c.

  
Jack R. DeWitt

JRD:jch

# Covenant

## BEHAVIORAL HEALTH

ELMBROOK  
MEMORIAL HOSPITAL  
(Francis House)  
19333 W. North Ave.  
Brookfield, WI 53045  
414-785-2233

ST. MICHAEL HOSPITAL  
2400 W. Villard Ave.  
Milwaukee, WI 53209  
414-527-8131

SOUTHEASTERN  
WISCONSIN MEDICAL  
& SOCIAL SERVICES  
10335 W. Oklahoma Ave.  
Milwaukee, WI 53227  
414-327-1800

*Clinic Sites:*

ST. JOSEPH'S  
BLUEMOUND  
10010 W. Bluemound Road  
Wauwatosa, WI 53226  
414-256-3740

BAY SHORE  
SHOPPING MALL  
5900 N. Port Washington Rd.  
Suite B230  
Glendale, WI 53217  
414-327-1800

SFH MEDICAL ARTS  
PAVILION  
2025 W. Oklahoma Ave.  
Suite 118  
Milwaukee, WI 53215  
414-389-2976

OZAUKEE COUNTY  
(Settlers' Square)  
14135 N. Cedarburg Rd.  
Mequon, WI 53092  
414-327-1800

RACINE  
(Prairie Park)  
1055 Prairie Drive  
Racine, WI 53406  
414-886-6575

KENOSHA  
(Kenosha Medical Park)  
3601 30th Ave.  
Suite 101  
Kenosha, WI 53144  
414-656-1540

LAKE COUNTRY CLINIC  
1292 W. Capitol Drive  
Pewaukee, WI 53072  
414-695-1728

MEMBERS OF

Covenant  
HEALTHCARE

August 27, 1999

To Whom It May Concern:

Re: Senate Bill 107

As a long time provider of services to children and parents in the State of Wisconsin, I am writing as a professional psychologist concerned about SB107, a budget bill, which also involves major public policy changes that will greatly affect the lives of children in Wisconsin for future years.

Protective service measures need to be foremost in situations where children's best interests are concerned. It is ideal if a child can have both parents involved in their lives on an equal basis. However, some parents do not have the interest or ability to care for the child; therefore, such things as education for parents about how divorce affects children and options to help them with this initiative need to also be provided. There needs to be flexibility to develop plans of visitation and shared placement that take everyone's interest into consideration - both parents and child.

Laws that dictate these requirements are not helpful. These laws need to be cognizant of the input of everyone concerned for protecting children, such as guardian ad litem, family court commissioners, domestic abuse groups, psychotherapists and social workers.

It is my hope that authors of legal regulations in Wisconsin that involve children's lives would keep in mind that children, who often cannot speak or vote, have rights too. Hopefully these would be reviewed and carefully monitored so that they include all of the following

- 1) a right to a secure "home base"
- 2) a right to a relationship with both parents
- 3) a right to a "living plan" considerate of their safety and welfare

- 2-

Hopefully, committees working on SB107 will not hastily dismiss the language and intent of this legislation but will carefully listen to all sides and come to the most judicious conclusion that will guarantee Wisconsin children a sound, safe and secure future.

Sincerely,

A handwritten signature in cursive script that reads "Joyce S. Degenhart". The signature is written in dark ink and is positioned above the typed name.

Joyce S. Degenhart, Ph.D.  
Clinic Director

LETTER SENT EMAIL TO JIM GARDNER FOR SEPTEMBER 2 HEARING

August 28, 1999

The Honorable Tommy G. Thompson  
P.O. Box 7863  
Madison, Wisconsin 53707

Dear Governor Thompson:

I respectfully request that you veto the Joint Custody Amendment to the state budget proposal.

As Director of "Bridges for the Kids' Sake", the first Wisconsin court approved parent education program for divorcing parents, I am alarmed that a proposal with such far reaching consequences could be tacked on to the state budget without adequate time for public hearing and consideration. Carol W. Medaris, Attorney, makes an excellent argument for taking time to explore the proposal on its own, rather than part of the budget process. For example, as currently written, the proposal could override children's best interests by making it more difficult to protect them when domestic violence or child abuse exists.

Please give this amendment the focus and attention it deserves. The effects of divorce are long-term and far-reaching, as I can attest as a child of parents who could not agree on my best interests. With the divorce rate still hovering near 50%, we need to be thoughtful and take time to consider all implications of this proposal because it will affect many children.

Thank you for your consideration.

Sincerely,

Karen R. Schudson, M.S.  
American Association of Marriage and Family Therapists  
2408 East Newton Avenue  
Shorewood, Wisconsin 53211



**MEDICAL  
COLLEGE  
OF WISCONSIN**

Anthony D. Meyer, M.D.  
Director

Irving H. Raffe, MSW  
Associate Director

Department of Psychiatry and  
Behavioral Medicine  
Division of Child and  
Adolescent Psychiatry

August 27, 1999

Mr. James Gardner  
N37 W6989 Wilson Street  
Cedarburg, WI 53012

Dear Mr. Gardner:

On August 27, 1999 your "Bill of Rights" for children of divorce was discussed by the faculty of the Division of Child and Adolescent Psychiatry of the Medical College of Wisconsin. We are in full support of your proposal. Clearly the importance of a secure home base and the importance of a relationship with both parents dictates that careful consideration needs to be given for the child's safety and welfare. Thoughtlessly attempting to "equalize" through 50/50 placement unless thorough study of the child is done is totally irresponsible. Clearly that kind of proposal appeals only to those that have the vote i.e. adults and does nothing to safeguard the best interest of the child.

Sincerely,



Anthony D. Meyer, M.D.

803 South Adams Avenue  
Marshfield, WI 54449  
August 26, 1999

To: Committee on Children and Families  
Committee on Family Law

Re: Proposed changes to the standards for determining legal custody and physical placement of children in actions affecting the family and related matters.

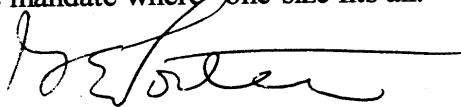
I practiced as a pediatrician at the Marshfield Clinic for thirty four years, retiring in 1997. My areas of expertise were psychomotor development, behavior problems, and child abuse and neglect. Based on my training, on-going continuing medical education, and especially my experience of over 125,000 patient visits, I wish to comment on these standards.

The best interest of the child should be paramount whenever the death or incapacity of a parent, the termination of parental rights, or divorce of parents occur. The rights of parents are extremely important but too often they are emphasized over the rights of the child with consequent detriment to the child. In recent years, following divorce, "joint custody" has become almost routine. This happened even though there was no research that this was in children's best interest. (Per the writings and oral presentations of Judith Wallerstein, PhD, one of the leading researchers on the effect of divorce on children.)

One of the most important factors for healthy psychosocial development of children is stability. With almost universal joint custody I saw children who spent Sunday through Wednesday with one parent and Thursday through Saturday with the other parent or perhaps different days each week with one or the other parent. Children need homes where they have their books, clothes, stuffed animals, and, most importantly, routines. Many of these joint custody arrangements mean new step-siblings in each home and a completely different set of rules in place in each home i.e. lax one place and strict another. Wherever possible, the child should have a relationship with both parents but he or she should not feel like a volleyball shuttled back and forth nor should he or she feel like a pawn in custody and child support controversies, a occurrence which I saw very frequently in my practice.

Children are greatly affected by divorce of their parents (even more than by a parent's death). These children frequently think they caused the divorce or that, if they work had enough, the parents will reconcile. To add the burden of state-mandated custody arrangements will further adversely affect these children.

It is best for the courts to continue to establish custody and placement plans in each child's situation rather than have a legislative mandate where "one-size fits all."



Gerald E. Porter, M.D.

LETTER SENT EMAIL TO JIM GARDNER FOR SEPTEMBER 2 HEARING

August 30, 1999

Dear Mr. Gardner:

Thank you for your efforts in behalf of the children of Wisconsin. As a family therapist and owner of the organization that created Bridges for the Kids' Sake, I am very concerned about the harm that could arise from S.B. # 107. The focus of our program, as the name states, is on the well-being of children of divorce. We do not believe S.B. # 107 will provide safe transition for children. In many cases, it could be a vehicle for increased trauma to children, in the name of parents' rights.

We have studied your proposal for a "Bill of Rights" for Children of Divorce, and give it our support.

If we can be helpful in any way, please do not hesitate to call.

Jo Hawkins Donovan, President  
Hawkins-Donovan & Associates, Ltd.  
759 N. Milwaukee Street  
Milwaukee, WI 53202



# Wisconsin Family Court Commissioner's Association

August 31, 1999

Senator Gary George  
Chair, Senate Judiciary Committee  
P.O. box 7882  
Madison, WI. 53707-7882

Re: Custody Changes in Proposed Budget

Dear Senator George:

Please accept this letter as the Association's written testimony on the custody proposals presently contained in the budget proposals currently before the joint conference committee - specifically LRBb 1634/1 and LRBb 1556/1.

Due to the press of calendars or other scheduled commitments, it is probable that no member of our Board can attend the Informational Hearing you are holding on the custody proposals on September 1, 1999. We do expect that some of our members may testify. As always, I would welcome the opportunity to follow up with you on any questions you may have about the Commissioners' concerns. I think our exchanges over the past six months have been constructive and hope we can continue to work together with you, the State Bar, the Judiciary, and other directly affected consumer groups to improve Wisconsin's custody, placement and support laws.

Now, regarding the specific proposals as currently drafted:

The proposals are a vast improvement over the original SB107, and contain many positive advances in the law:

- Requiring parents who think they have a custody dispute to present an actual parenting plan should eliminate many disputes and ensure that parents have seriously thought through how they propose to live with their children under their requested placement allocation.

- Merging existing factors on award of custody and support so that the same factors will usually apply in paternity and divorce cases is a step forward. It will eliminate great confusion and go far to erase the perception that non married fathers are unfairly treated as no more than support payors with no interest in the child.
- Restoration of the pre 1983 past support law in paternity cases (generally limiting liability for past support to the period after the filing of the action absent a showing of fraud, duress or evasion) is fairer than the present law AND should encourage prompt filings by mothers or agencies acting on their behalf. Prompt adjudication will lead to support actually being paid sooner and should foster father participation as well.
- A new factor regarding the allocation of placement that allows the court specifically to consider "past performance" is a long needed addition to the law.
- A "use it or lose it" addition to sec 767.325 [modification of placement or custody] is likewise a long needed addition to the law. All too often we have seen situations where one parent has asked for and received a very extensive placement schedule - and had support reduced accordingly - and then not adhered to it for one reason or another. Modification should be possible in those cases without meeting a high standard of proof, and under the budget proposals, it is possible to modify simply on the basis of non use.
- Your creation of a placement injunction proceeding makes us a bit nervous re:workload, but if it improves compliance with court ordered placement plans, that is all to the good.
- The proposals' retention of the best interest standard and the use of guardians *ad litem* in contested cases is positive, as is the proposed creation of the Legislative Council Committee to study possible changes to the entire guardian *ad litem* practice.

We do still have some serious concerns about certain provisions of the Legislation. We understand that many view these proposals as a package and a product of delicate compromise, but there are certain parts that still cause real alarm, and still need revision:

- The *presumption for joint legal custody* needs an easier opt out

in order to protect victims of domestic violence. As you know from our previous correspondence, the Association has not favored presumed joint custody because we think it raises false expectations and leads to further litigation where parents are not really prepared to work together. However, we recognize that a presumption for joint legal custody is generally popular and we are certainly able to work with that if it passes. But there **must be the ability to opt out** where there is evidence of domestic violence. As currently drafted there is a requirement that a court find two factors to depart from presumed joint legal custody, and domestic violence is only one of the factors. see 767.24(2)(b). This is wrong, and is simply an overreaction to the occasional case where the domestic violence injunction or criminal process has been manipulated in the course of a divorce or paternity action, In those cases, the court *now* can still order joint custody, but only where an inquiry has been made into the specific facts and the court determines that joint custody - with its requirement of communication and cooperation between parents - poses no danger. The language on p. 435, line 18 should substitute "any" for the words "2 or more".

*amendment*

- The parenting plan should contain language exempting victims of domestic violence from the requirement of providing residential or employment addresses or employer identity. (That doesn't mean the court couldn't require either address at the final hearing if the evidence showed no reasonable existence of continuing danger to the victim - it just means that the domestic violence victim would not have to include the information in the written plan presented *before* any evidentiary hearing .)

*amendment*

- The placement factors, read together, veer too far toward a presumption for equal placement and jettison serious consideration of a child's right not to live out of a suitcase to satisfy an ideal of fairness for parents. We renew our proposal, contained in our June 17th letter, that 767.24 (2), in the introductory paragraph, be reworded to say that the court "shall set a placement schedule that maximizes each parent's placement time with the child consistent with providing the child a stable and secure environment in which the child can grow and thrive." We further propose that you either eliminate factor (5)(bm) entirely or reword it to say "the right of a child to spend meaningful periods of time with each parent", and that you delete (5)(em) which then becomes redundant.

*change*

With the changes proposed above, the custody changes you have proposed would be a genuine improvement over the current laws.

Thank you for your attention.

Sincerely,

Lucy Cooper, Legislative Liaison

Dolores Bomrad, President

Re: Equal Custody Provision in the 1999-01 Wisconsin State Budget Bill

I am a victim of domestic violence. And my children are victims of physical and mental abuse, too. I have lived in fear for 14 years. My husband first hurt me six months after we were married. He's only exploded and hurt me about 9 times in 14 years. But it was enough to live in fear - to always have to watch what you say and do so that you didn't make him upset. I've also lived with hope, and I've lived with a dream that things could be different. But the dream ended when my husband hit me with his car and filed for divorce. My husband was arrested twice for domestic violence (in 1996 and 1999) and ordered to domestic violence counseling. I don't feel that the counseling helped. And my husband was never convicted. But that doesn't mean that the children and I don't fear him. We've seen what he is capable of. We've walked on eggshells trying to not upset him. When he was in a crabby mood (which was usually every weekend), the kids would say, "Better stay away from Dad today. Let's go somewhere." He's hurt the kids in the past. Some of the things I knew about. Some, I didn't know about. And most I never saw. Now the kids are telling me many stories of how Dad hurt them or scared them in the past. He's slapped the kids on the face, thrown them, whipped them with a belt, kicked them, hit them on the head, pushed them into walls or the floor. One time when he was hurting me, our 13 year old daughter tried calling 911, and he went after her. And he's still hurting them and scaring them. Now I see how they've lived in fear all these years, too. Three of our four children don't even want to see their dad. The fourth is only 4 years old and doesn't understand. But now, the courts have ordered the children to see their dad. I overheard our 7 year old ask his sister, "Do you think that since Dad loves me, he won't hurt me?" I've had to carry our 7 year old son screaming and crying "I don't want to go" to my husband's car. He's had to be forced into his car. He's had to be carried into my husband's house. My husband has had to bar the door and lock his doors so that our son couldn't "escape." Can you imagine having to watch your child be forced to go someplace that he fears. I can tell you that it would bring you to tears. The children don't want to sleep over his house. They don't want to be alone with their father. They want to stay in public places with him. But now they have no choice. If my children were ordered to a shared placement situation, I think half of them would run away from home. I understand that they need to have a relationship with their dad. But I also understand that they need to feel safe. And they don't feel safe. Last week, my 12 year old

called me from her father's house and told me that she was scared. Her dad was being "grouchy", threatening to call the police because the 7 year old wasn't behaving, and threatening to spank the 7 year old with a belt. But what could I do? NOTHING. Nobody seems to care unless a child lands in the hospital. Would you be willing to wait until your child is seriously hurt? My husband slapped our 4 year old on the face, and I called child welfare. But unless there's marks or bruises, nothing can be done.

This bill which automatically assigns joint custody and shared placement unless there's been a conviction of battery would be a grave mistake. What about us? There's been no conviction of battery. Physical abuse is something that people don't talk about. It's something that is hidden out of embarrassment. It's something I didn't tell the authorities about because I feared that they would take the kids away from me. And I was married to this man. I was protecting him and hoping he'd change. I didn't even call the police when he hit me with his car. Women that live with abuse fear calling the police and often don't. The statistics say that women are abused an average of 7 times before they ever call the police. I was threatened by my husband that if he ever ended up in jail again, "I had better look out when he gets out." And my husband does not fit the stereotype of an abuser. He has a Ph.D. and a high paying job. There has been no convictions of battery. But that doesn't mean that there hasn't been battery. My husband broke his own hand hitting our daughter on the head. Isn't this battery? If this bill is passed, you would be sentencing my children to a life of fear. This bill is about Dad's rights. But what about children's rights. Aren't my kids entitled to a voice. Aren't my kids entitled to be heard? Aren't my kids entitled to have a say about their safety and well-being. Aren't my kids entitled to be protected. I ask you, aren't my kids entitled to not have to live in fear?

Thank you for hearing our plea,

*Anna Ford*

Anna Ford  
7898 W. Puetz Road  
Franklin, WI 53132

Good day.

Thanks for you for getting this meeting together today.

My name is Jeanette Gruel, As a grandmother of a 4yr. old grandchild involved in a problematic custody case, I could tell you stories - sad stories - esp. for my grandchild ... But I 'WON'T'.

I'm here today to plead for Time. As WI citizens we need TIME to analyze & decide the complex issues involved in this senate bill & then let our representatives know our opinions.

As citizens it is our responsibility to protect our WI children - me, WI children of divorce.

For safety let's err on the side of caution if we ~~to~~ err at all. If however ~~if~~ this piece of legislation is passed at this time - AND I repeat "at this time" - it will be a grave error <sup>in my opinion</sup> And haste will be a large part ~~to~~ of the error I believe.

Again, we as citizens need adequate time to analyze & even meditate on available information regarding...

Children placement issues, etc.

As our elected representatives I implore you on my behalf + many others who agree with this stance —

Please go back to the drawing board + take your time + ours.

Also inform us all along the way — these are our children.

Let's Attack the problems — NOT each other!

Remember the road sign

Children present ~ Proceed with  
CAUTION

Thank you.