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Committee on Family Law
Public Hearing, AB 521
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Thank you Madam Chair and members of the Committee for this opportunity to testify on AB 521, relating to eliminating the 6 month waiting period after a finalized divorce.

I have never been divorced, nor have any future plans to do so, but when this law was brought to my attention, it surprised me. Why does our state discriminate against individuals who have been divorced by penalizing them with a six month waiting period? There were no laws broken; these individuals simply made a difficult choice and ultimately decided to end their marriage.

Wisconsin is just one of six states that still mandates a waiting period after a finalized divorce before an individual is allowed to re-marry. Other states include Oklahoma – six months, Nebraska – six months, Alabama – 60 days, Kansas – 30 days, and Texas – 30 days. Under Wisconsin's current law, an individual must wait six months before he or she is allowed to re-marry, with no exceptions. This bill would simply eliminate the prohibition against a person marrying for six months after the grant of that person's judgement of divorce.

An argument you may hear from those who oppose this bill is that it is in the state's best interest to ensure that any remarriage following a divorce is given the best opportunity to succeed. Who determines what an individual's 'best opportunity' is? I argue that it is not the role of the state to decide for a single person when it is appropriate to re-marry. Nor should the state determine what a marriage's best opportunity to succeed looks like. Every circumstance is different and you will hear testimony from some individuals today who will paint a clearer picture of the effects of such a law. Ultimately, it is the individual person who knows and understands what is in their own best interest, not the state.

Another argument you may hear today is that an individual needs a waiting period to recover from the emotional stress that happens with a divorce. Again, I argue that an individual knows better than anyone else their feelings and emotions. In order for a final judgement of divorce to be granted, a minimum of 120 days of waiting is already required. This waiting period starts the day someone first files for divorce and ends when the divorce is granted by the court commissioner. Depending on the intricacies of the divorce, this minimum four month waiting period could exceed well beyond 120 days. When the divorce is finally granted, the mandatory six month waiting period begins.

Recovering from a divorce looks different to each of the individuals involved. For some, it is easy, for others it is more difficult and takes an emotional toll. It is not our role to judge these

people or to try and understand how quickly they are able to recover. Our role is to allow individuals to make their own decisions and determine what is best for them, not discriminate against them by mandating they wait six months. A marriage could be over long before the divorce is final; each case is different and that is something I ask each of you to keep in mind.

A final argument from those who oppose this bill that I would like to address to the Committee is that the waiting period protects the interests of the institution, in particular children. DHS indicates that in the year 2015 52% of Wisconsin divorces involved families with children under 18. This means that 48% of divorces did not. While we all want what is best for the children of our great state, don't the parents know what 'best' looks like? Shouldn't we trust parents to make decisions on behalf of their family unit?

I would like to entertain you with an example. Two married parents have been physically separated for years. One of those parents met someone and decided it was time to go through with the actual divorce in order to legally be with someone else. At the very minimum these people will have to wait 10 months (four months minimum for the divorce process and another six months for the waiting period). Since these parents have been separated for years already, would it not be acceptable for them to re-marry after the final divorce? As I have stated, each situation is different and we need to allow individuals to decide what is best for them, with or without children.

Something important to note is that there is no statistical evidence which definitively correlates that a waiting period after a finalized divorce keeps divorce rates low. In fact, Oklahoma, which has a six month waiting period after a finalized divorce, has one of the highest divorce rates in the country. Iowa, with no waiting period, has one of the lowest divorce rates.

In summary, the state should not be in the business of telling someone when an appropriate time to remarry is. The individuals understand their feelings and emotions better than anyone else, and the decision needs to be left up to that individual, with or without children. This waiting period discriminates against people simply because they are divorced.

It is my hope that the Committee support AB 521 to allow legally single individuals the ability to decide for themselves when re-marriage is appropriate.

Thank you again for the opportunity to testify.

Representative Cindi Duchow



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Testimony in Opposition to Assembly Bill 521
Assembly Committee on Family Law
Public Hearing, October 31, 2017
Julaine Appling
President, Wisconsin Family Action

Thank you, Chairwoman Rodriguez and committee members, for the opportunity to testify on Assembly Bill 521.

Wisconsin Family Action strongly opposes this bill.

Currently, Wisconsin's law precludes any person who is divorced under Wisconsin law from remarrying anywhere in the world until six (6) months after the divorce has been finalized. Any marriage before the end of the 6 months is considered void. Wis. Stats. 765.03 (2)

In 1972, the state legislature changed the waiting period from one year to the current six (6) months. This provision is for good reason and should not be changed.

The state of Wisconsin recognizes the importance of marriage as stated in the "Intent" section of the state statutes: 765.001 (2):

INTENT. It is the intent of chs. 765 to 768 to promote the stability and best interests of marriage and the family. It is the intent of the legislature to recognize the valuable contributions of both spouses during the marriage and at termination of the marriage by dissolution or death. Marriage is the institution that is the foundation of the family and of society. Its stability is basic to morality and civilization, and of vital interest to society and the state. The consequences of the marriage contract are more significant to society than those of other contracts, and the public interest must be taken into account always. The seriousness of marriage makes adequate premarital counseling and education for family living highly desirable and courses thereon are urged upon all persons contemplating marriage. The impairment or dissolution of the marriage relation generally results in injury to the public wholly apart from the effect upon the parties immediately concerned.

Wisconsin has taken marriage seriously because Wisconsin recognized that the next generation is truly important to the state's ongoing well-being and prosperity. Historically the state has understood that the very best environment for children—the future workforce, taxpayers, entrepreneurs, leaders, etc. of our state—is to be brought up in the homes of their married dads and moms. Therefore, in its policies, Wisconsin has generally sought to encourage marriage and child-bearing within marriage, as well as to encourage parents who bring children into the world to remain together as a married couple in particular for the well-being of the child/children..

From time to time, we have unfortunately lost sight of the importance of marriage in state policy. For instance, in 1977, the state legislature replaced the traditional divorce system (involving fault and contest) with a "no-fault" system, which ultimately included, for all practical purposes, a "no-contest" system, as well. These legal changes have resulted in marriages being able to be dissolved simply because one spouse is unhappy, leaving the other spouse with no legal recourse to object. When even just one spouse indicates a marriage is "irretrievably broken," the court has little to no way to deny the divorce petition, regardless of any protestations of the other spouse.

As noted in the Intent section of Chapter 765 of our state statutes, "[t]he impairment or dissolution of the marriage relation generally results in injury to the public wholly apart from the effect upon the parties immediately concerned." Therefore, it is in the state's best interest to ensure that any remarriage following a divorce is given the best opportunity to succeed.

Even so-called “easy divorces,” (*i.e.*, those without much acrimony and contention; usually ones without children involved) take emotional and often financial and even health tolls on the individuals involved. More complex divorces result in commensurately more stress.

Recognizing the importance of marriage and the “injury” divorce brings to the immediately concerned parties, the state built in a waiting period before a divorced person can remarry. While little is written regarding the history of Wisconsin’s waiting period specifically, marriage experts have opined and continue to do so that the reason for a waiting period is to make sure the divorce is truly what the couple wants, to give them time after all the emotional and other upheavals of finalizing the divorce, to reflect on what they have done, recover a bit in all ways, work on any new relationship, etc. before they leap into marriage again.¹

Marriage and divorce aren’t like any other kind of relationship or dissolution, especially when children are involved. Much needs to be considered after a divorce before a remarriage. Marriage counselors and therapists we have consulted consistently indicate regarding the 6-month waiting period before remarriage, that if anything, the waiting period should be longer.

Statistics show that remarriages are considerably more likely to end in divorce than first marriages.² A waiting period of significant duration affords opportunity for careful deliberation, clearer thinking, more talking, more discovery, more preparation especially for children who would be involved, intensive premarital counseling and more. The goal is to do everything possible to have a successful next marriage; building in some time helps increase the likelihood of that happening.

Addressing the issue of children, marriage today, sadly, has become much more adult-centric than child-centric. In other words, marriage is far more about adult desires and their perceived “happiness” than what is truly best for children. Too often remarriages especially illustrate this as just-divorced parents move rapidly into another marriage because that is what they as adults want, without carefully considering the impact on children and without sufficient time for the children to adjust.

The trauma divorce brings to children is well-documented. Imagine how that trauma is multiplied if within weeks or even days of the divorce being final, the children are thrust into a situation where one or both parents is remarried. A 6-month waiting period helps mitigate this trauma. With a waiting period, the state is protecting the interests of the institution and in particular of children. The waiting period appropriately checks adult desires for a reasonable amount of time.

In 2014, 52% of Wisconsin divorces involved families with children under 18. In divorces involving children, an average of 1.9 children were affected by each divorce.³

Even in marriages where children are not involved, waiting to remarry is wise. Coming out of a failed marriage and rushing into another marriage, even if the individuals have been separated for some time, is not a good beginning and actually sets the couple up for problems and as a result increases the likelihood of divorce.

Wisconsin legislators have indicated a primary reason for eliminating the current waiting period is to bring the state into conformity with the majority of other states. Admittedly, the vast majority of states (44) have no waiting period. That does not make eliminating an existing waiting period right or good. It means the states have taken what appears to be the easy way out but which will ultimately be the hard way for their citizens and for the state’s overall good.

Consider, for instance, that by any standard, divorce is expensive—not just for the individuals directly involved but for states. In 2008, a national study was done showing (conservatively) the cost of “family fragmentation,” defined as divorce and unwed child birth. The study broke out each state. Wisconsin’s annual cost for “family fragmentation” nine (9) years

¹ <http://healthresearchfunding.org/55-surprising-divorce-statistics-second-marriages/>;
<http://www.familylife.com/articles/topics/blended-family/remarriage/dating-and-preparing-for-marriage/10-things-to-know-before-you-remarry>; <https://www.psychologytoday.com/blog/the-joint-adventures-well-educated-couples/201210/how-long-wait-getting-married>; <http://divorceinfo.com/remarriage.htm>

² <http://healthresearchfunding.org/55-surprising-divorce-statistics-second-marriages/>

³ <https://www.dhs.wisconsin.gov/publications/p45359-14.pdf> [Note: The 2015 Marriage and Divorce report issued by the Dept. of Health Services in May 2016, does not include any reference to children or any statistics involving them.]

ago was \$737 million.⁴ Obviously, a large portion of this cost is from divorce.⁵ A number of years ago some researchers estimated each divorce in any given state costs taxpayers about \$30,000. Wisconsin has had roughly 15,000 divorces annually for the last 4 years.⁶ If we assume the \$30,000 per divorce (which is likely quite low), then the state's taxpayers bear about \$450 million per year as the public cost of divorce. It is definitely in any state's best interest to mitigate the likelihood of divorce. Wisconsin is doing that by requiring a reasonable waiting period before remarriage after a divorce.

Removing Wisconsin's six-month waiting period for remarriage after a divorce is not good policy. The state should continue its good history of prudent policy that is truly in its citizens' best interest and its own best interest.

Wisconsin Family Action strongly urges committee members to vote no on this bill.

⁴ <http://americanvalues.org/catalog/pdfs/COFF.pdf>

⁵ "These costs arise from increased taxpayer expenditures for antipoverty, criminal justice, and education programs, and through lower levels of taxes paid by individuals who, as adults, earn less because of reduced opportunities as a result of having been more likely to grow up in poverty." *Taxpayer Costs of Divorce and Unwed Childbearing*, p. 5

⁶ <https://www.dhs.wisconsin.gov/publications/p45359-15.pdf>