



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Senate Committee on Insurance, Financial Services, Government Oversight and Courts
Thursday, February 20, 2020

Thank you for holding a hearing on Assembly Bills 93, 95, 96, 97, 98, 99, 100, 101, and 102 and allowing me to testify in favor of this legislation.

Last session, I served as the Chair of the Study Committee on Child Placement and Support. Senator Lena Taylor was the committee's vice chair.

The committee was tasked with reviewing current standards for determining physical placement and child support obligations.

The committee was composed of 5 legislators and 8 public members, including a judge, court commissioner, private family law attorney, domestic violence advocate, fathers' rights activists, and county child support agency directors.

The diverse membership of the committee allowed us to hear from multiple stakeholders. It was important for us to receive feedback from both practitioners and parents that would be directly impacted by policy change – both of which were represented on the committee.

Each of the bills before you today received bipartisan support in the Assembly Committee on Family Law and was passed via voice vote on the Assembly floor in January.

Assembly Bill 93

Assembly Bill 93 is a piece of Uniform Law Commission legislation, which has already been enacted in 14 states. It creates a process and standards for temporary delegation of custodial responsibilities when a parent is deployed in military or national service. During deployment, that parent may grant his or her custodial responsibilities or visitation to stepparents, grandparents, great-grandparents, or adults who have a parent-like relationship with the child. The bill also establishes a timeframe for termination of these temporary custodial responsibilities when the deployed parent returns. The timeframe depends on the length of deployment.

The study committee heard testimony that temporary custody and placement arrangements are challenging for military families during deployment. This bill would help give these families a sense of certainty during deployment.

Assembly Bill 95

Assembly Bill 95 allows courts to approve contingency placement agreements. These would lead to modifications to legal custody or physical placement based upon future events that are certain to occur within two years' time. For example, a change in a child's school or extra-curricular activities.



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Based on feedback during the study committee process, contingency placements cannot be based on anticipated parental behavior modification, such as, completion of domestic violence or AODA treatment.

The study committee heard testimony regarding the value of encouraging parents to engage in advance discussion about anticipated issues and changes in the family and to attempt to resolve those issues together.

Current limitations on modifying orders favor the status quo on placement arrangements, but these limitations are not realistic in situations when change in life events and a child's need can be anticipated in the near future.

Assembly Bill 96

Assembly Bill 96 updates current DCF administrative rules relating to child support formulas to reflect that shared physical placement arrangements are now very common and should not be considered special circumstances.

This is a technical cleanup bill that codifies current practice in statute. Statute should be updated to reflect that shared physical placement arrangement are no longer "special circumstances." This bill will help avoid switching to a new methodology for calculating child support payments. It is important to note that formulas used to calculate child support amounts are not changed.

The committee heard testimony that the modern focus of child support is on a child's right to share in both parents' income as if the family was intact, and is based on national studies of family expenditures. Assembly Bill 96 makes updates to reflect current practice.

Assembly Bill 97

Assembly Bill 97 adds a new statement to the general principles for child custody and placement. It states that any order presumes that the involvement and cooperation of both parents regarding the physical, mental, and emotional well-being of the child is in the best interest of the child.

The study committee wanted to emphasize that cooperation in parenting and involvement by both parenting parties is usually in the child's best interest.

Assembly Bill 98

Assembly Bill 98 specifies that if a court grants less than 25% physical placement to a parent, a finding of fact must be entered as to the reason greater placement with said parent is not in the best interest of the child.

Currently, parents have no understanding of why they are not being awarded placement. This bill allows parents to have clear knowledge of which factors they are not meeting. This allows them



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to work on these issues. Given the trend in shared and substantially equal placement arrangements, the committee found value in having a court explain the reasoning when physical placement with one parent is limited.

In addition, Assembly Bill 98 reorders statutory best-interest factors, but specifies that the factors are not necessarily listed in order of importance. The study committee heard testimony suggesting that the factors be rearranged for easier application. This bill eliminates two considerations: the stability in placement and availability of child care services. Study committee members thought these considerations were already covered in other factors. These two factors kept placement in place without allowing for parents to adjust to a new way of life after divorce.

Assembly Bill 99

Under current law, divorcing parties are required to file a parenting plan with the court only after mediation fails or if mediation is waived. Assembly Bill 99 requires parents to submit proposed parenting plans to family court services or the mediator at least 10 days before mediation. Parents are not required to exchange parenting plans with each other prior to mediation.

The parenting plans must include more focus on co-parenting, rather than financial arrangements. The study committee heard testimony that co-parenting proposals are effective in helping parents focus on a child's need and determining arrangements that work best for the family, without litigation. The effectiveness of the current parenting plan process is largely lost and this bill remedies the current system's failure.

Assembly Bill 100

This bill would allow courts in a family law action involving minor children to take judicial notice of records for specific convictions and restraining orders. The convictions must involve crimes subject to domestic abuse surcharge, crimes against the convicted individual's child, or restraining orders that were ordered by the other parent.

The study committee heard testimony that the court is frequently unaware if a family has a history of domestic violence, even when a parent has a conviction or injunction that is publicly available in court records. Judges do not always ask a party about possible history of domestic violence, unless prompted by something in the case file. Additionally, victims of domestic violence are often hesitant to speak up about past instances, so judges would be able to look at records themselves.

This bill would allow judges to have all of the relevant information when determining periods of physical placement of a child.

Assembly Bill 101



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Currently, family support combines portions of child support and maintenance into a single payment. For tax purposes, family support payments are considered to be maintenance payments, so the payment is deductible to the payor-spouse and taxable to the recipient-spouse.

Under the federal Tax Cuts and Jobs Act of 2017, maintenance payments, such as family support, are no longer deductible for the payor and not included as income to the recipient.

Due to this tax change at the federal level, the study committee introduced Assembly Bill 101. This bill eliminates new family support orders in order to ensure that these payments are consistent with current state and federal tax laws.

Assembly Bill 102

Under Assembly Bill 102, DCF would no longer be able to include variable housing costs for determining gross income for child support. The department would continue to calculate gross income using veterans' disability compensation benefits and military basic allowance for subsistence and housing.

The study committee heard testimony that using variable housing costs, rather than base housing costs, leads to an increased number of court actions for a revision of child support upon each military move. The use of base housing costs would create stability and better reflect the variable housing costs purpose.

Thank you for your time and attention and I ask that you support these bills. I would be happy to answer any questions.



Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

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Statement of Libby Snyder, Legislative Counsel, Uniform Law Commission Senate Committee on Insurance, Financial Services, Government Oversight and Courts AB 93 (Introduced by Joint Legislative Council)

Chair Craig, Vice Chair Stroebel, and members of the Committee:

Thank you for the opportunity to express support of AB 93, which would enact provisions substantially similar to the Uniform Deployed Parent Custody and Visitation Act (UDPCVA). A uniform act prepared and promulgated by the Uniform Law Commission in 2012.

The Uniform Law Commission (ULC), now 127 years old, provides states with well-drafted legislation that brings clarity and stability to critical areas of state statutory law. Since its inception, the ULC has drafted over 400 acts. In 1895, Wisconsin adopted its first uniform act. Since then, Wisconsin has enacted more than 142 uniform acts. This achievement is a testament to the quality of the ULC process and the value of its work.

Wisconsin has 976 active duty servicemembers.¹ When these servicemembers receive notice of a deployment, it can raise difficult child custody issues for families with young children. Issues that can profoundly affect children's welfare and service members' ability to serve our country efficiently. Reports of servicemembers struggling to balance military and parental duties have become commonplace. AB 93 seeks to help military families by alleviating unnecessary complexities and enhancing predictability. There are numerous reasons for Wisconsin to join the 15 other jurisdictions² that have adopted the UDPCVA. Here are just a few ways in which the AB 93 helps military families:

- **AB 93 represents a balanced approach that protects the rights of the servicemember, the other parent, and—above all—the best interest of the children involved.**
- **It promotes fairness by ensuring that servicemembers face a similar standard regardless of where they currently reside or might move or be deployed to in the future.**
- **Uniformity of state law helps military families navigate a multi-jurisdictional issue more easily.** While many states have enacted some legislation addressing parental deployment, these laws often differ greatly across jurisdictions, and this variance creates uncertainty because custody issues relating to the child of a servicemember will often involve two or more states.

¹ <http://www.governing.com/gov-data/public-workforce-salaries/military-civilian-active-duty-employee-workforce-numbers-by-state.html>; Data current as of Sept. 30, 2017 SOURCE: DoD Defense Manpower Data Center)

² Enacting jurisdiction include: Arkansas, Colorado, Florida, Guam, Minnesota, Iowa, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Utah, West Virginia

- **Deployment is often sudden and leaves families little time to address logistical issues. AB 93 streamlines processes by providing two methods for creating a temporary delegation of custodial responsibilities during deployment.** It provides for a temporary agreement between the parents, but also procedures for obtaining a temporary court order following a hearing. This is helpful when, despite best efforts, parents may not be able to reach an agreement out of court on the expedited pre-deployment timeline.
- **AB 93 sets out procedures for a limited period of transition after deployments for more than six months.** This strikes a balance between the servicemembers interest in quickly resuming custody against the possibility that resuming custody may not be in the child's best interest.

As you can see, the UDPCVA is an important step toward improving the lives of military families. It has been supported by stakeholders like the U.S. Department of Defense and the American Academy of Matrimonial Lawyers. In February 2013, the American Bar Association's Board of Governors approved it for consideration by the 50 states. In June 2013, the Council of State Governments included the UDPCVA in its Suggested State Legislation.

Our servicemembers are risking their lives; they should not have to risk their families as well. Thank you very much for allowing me to testify in support of AB 93. I am happy to address questions or provide additional information.