



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Assembly Committee on Family Law
Tuesday, March 9, 2021

Thank you for holding a hearing on Assembly Bill 101, 104, and 107 and allowing me to testify.

These bills originated in the Study Committee on Child Placement and Support, which I chaired.

The study 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.

Last session, these bills passed via voice vote in the Assembly and received unanimous support during the Senate committee process. Unfortunately, due to COVID-19, they were not scheduled for a full Senate vote.

Assembly Bill 101

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 101 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 study committee heard testimony that co-parenting proposals are effective in helping parents focus on a child's needs 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 existing system's failure.

Assembly Bill 104

Assembly Bill 104 makes two technical changes. First, it 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 bill codifies current practices and helps 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.



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The study 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 104 makes updates to reflect current practice.

In addition, this bill makes changes to family support orders. Currently, family support combines portions of child support and maintenance into a single payment. For tax purposes, family support payments are considered 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, Assembly Bill 104 eliminates new family support orders to ensure that these payments are consistent with current state and federal tax laws.

Assembly Bill 107

Assembly Bill 107 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.

The committee chose 25% placement for the finding of fact requirement because it is the threshold for shared placement in Wisconsin.

Currently, parents have no understanding of why they are not awarded placement. This bill allows parents to have clear knowledge of which factors they are not meeting. Parents can then work on these issues. Given the trend in shared placement arrangements, the study committee found value in having a court explain the reasoning when physical placement with one parent is limited.

In addition, Assembly Bill 107 reorders statutory best-interest factors, but specifies that the factors are not necessarily listed in order of importance. This component originated in an informal State Bar Family Law working group that convened prior to the study committee. Some of the working group's members also served on the study committee. The goal of rearranging the factors is easier application when determining placement schedules. This bill eliminates two considerations: the stability in placement and availability of child care services. The informal working group and subsequent study committee thought these considerations were already covered in other factors.

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

STATE SENATOR KATHY BERNIER
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From: Senator Kathy Bernier
To: The Assembly Committee on Family Law
Re: Testimony on Assembly Bill 107
Relating to: factors relating to the physical placement of a child
Date: March 9, 2021

Chairwoman Magnafici and members of the committee, thank you for hearing Assembly Bill 107 today. I want to note that Assembly Bill 107 is identical to 2019 Assembly Bill 98, which was introduced by the Joint Legislative Council as a result of the Study Committee on Child Placement and Support. The bill previously passed the Assembly on a voice vote and unanimously passed through a Senate Committee this time last year. Unfortunately, the bill did not have enough time to advance to the Senate floor.

Under current law, parents aren't always given a full understanding of why they are not being awarded equal placement of their children. This bill 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 that parent is not in the best interest of the child.

This simple change ensures parents have clear knowledge of which placement factors they are not meeting, allowing them to work to change these factors. With shared and substantially equal placement arrangements continuing to increase, there is value in having a court explain why physical placement with one parent is limited.

In addition, as advised by the study committee, Assembly Bill 107 reorders statutory best-interest factors for easier application, specifying that the factors are not necessarily listed in order of importance. This bill also eliminates two considerations: the stability in placement and availability of child care services, as the committee found these considerations are already covered in other factors and did not allow for parents to adjust to a new way of life after divorce.

I hope you will please join me in support of these simple changes. A parent given diminished physical placement of their child deserves an explanation so they can begin to work toward change. Thank you again for hearing Assembly Bill 107. I would be happy to answer any questions you may have.