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**Assembly Committee on Family Law
Testimony on Assembly Bill 291:
Eliminating the Waiting Period for Marriage after Divorce Judgment
October 11, 2023**

Thank you Chairwoman Rozar and members of the Committee for the opportunity to testify on Assembly Bill 291. This bill eliminates Wisconsin's mandatory six – month waiting period after a finalized divorce before an individual is allowed to marry again. Assembly Substitute Amendment One adds the requirement that divorcing parties with minor children must attend a parenting class.

Wisconsin's six-month waiting period for remarriage after divorce is antiquated and not particularly useful. Beginning in 1901, Wisconsin required a newly-divorced person in Wisconsin to wait for a period of time before remarriage. Initially, the time period was a year. In the 1970's this was revised to six months. There are no exceptions – death of the former spouse, their consent, or even remarriage to the same individual. Even if people have divorced in states with no waiting periods, they are not permitted to marry in Wisconsin for six months.

The waiting period is also redundant. When a petition for divorce is filed, Wisconsin has a mandatory 120-day period, about four months, before the divorce can become final. Depending on other factors, this minimum four-month waiting period will likely exceed that timeframe. When the divorce is finally granted, the mandatory six-month waiting period for remarriage then begins. This amounts to a total of *at least* ten months before someone is able to remarry in the State of Wisconsin. Wisconsin is an outlier on this issue. Only seven states and the District of Columbia have waiting periods. Wisconsin, along with Oklahoma and Nebraska, are the longest.

We can do better than an arbitrary time period for helping families heal from a divorce. Speaking with people who have gone through the pain of divorce, some want to move on quickly. For others, the time of six months, or a year, or even five years wouldn't help. Government can't fix broken hearts or homes. What we can do is equip families with better tools to solve their problems. That's why, with Assembly Substitute Amendment 1, we're proposing that divorcing couples who have minor children be required to attend a parenting class. There are exceptions to ensure judicial discretion, and to make sure one party cannot unduly delay the inevitable.

Divorce is terrible and tragic, but it is not government's job to determine when a legally-single individual is ready to be married again. The individuals involved in these relationships understand their feelings better than anyone else, and the decision to divorce and remarry needs to be left up to the individual.

Thank you for your time and consideration on this bill once again. I'm happy to answer any questions you may have.



Waiting Periods for Remarriage Following Divorce

For more information, please contact Walker Stevens, Policy Analyst, Children and Families Program, walker.stevens@ncsl.org

Below is a chart of state statutes requiring waiting periods before divorced parties may remarry. 8 states—Alabama, Kansas, Massachusetts, Nebraska, Oklahoma, Rhode Island, Texas and Wisconsin—and the District of Columbia currently have such a requirement.

State	State Statutes
Alabama	Ala. Code § 30-2-10 When a judgment has been entered granting a divorce in this state, the court shall order that neither party shall again marry, except to each other, until 60 days after the judgment is entered, and that if an appeal is taken within 60 days , neither party shall again marry, except to each other, during the pendency of the appeal.
District of Columbia	D.C. Code § 16-920 A decree or judgment annulling or dissolving a marriage, granting an absolute divorce, or terminating a domestic partnership, shall become effective to dissolve the bonds of matrimony or domestic partnership 30 days after the docketing of the decree or judgment unless either party applies for a stay with the Superior Court of the District of Columbia or the District of Columbia Court of Appeals. ...
Kansas	Kan. Stat. § 23-2713 (a) Any marriage contracted by a party, within or outside this state, with any other person before a judgment of divorce becomes final shall be voidable until the decree of divorce becomes final . An agreement which waives the right of appeal from the granting of the divorce and which is incorporated into the decree or signed by the parties and filed in the case shall be effective to shorten the period of time during which the remarriage is voidable. ...
Massachusetts	Mass. Gen. Laws ch. 28, § 21 Judgments of divorce shall in the first instance be judgments nisi, and shall become absolute after the expiration of ninety days from the entry thereof, unless the court within said period, for sufficient cause, upon application of any party to the action, otherwise orders. After the entry of a judgment nisi, the action shall not be dismissed or discontinued on motion of either party except upon such terms, if any, as the court may order after notice to the other party and a hearing, unless there has been filed with the court a memorandum signed by both parties, wherein they agree to such disposition of the action. Mass. Gen. Laws ch. 28, § 24 After a judgment of divorce has become absolute, either party may marry again as if the other were dead.
Nebraska	Neb. Rev. Stat. § 42-372.01 ... (2) For purposes of remarriage other than remarriage between the parties, a decree dissolving a marriage becomes final and operative six months after the decree is entered or on the date of death of one of the parties to the dissolution, whichever occurs first. If the decree becomes final and operative

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Waiting Periods for Remarriage Following Divorce

	upon the date of death of one of the parties to the dissolution, the decree shall be treated as if it became final and operative the date it was entered. ...
Oklahoma	Okla. Stat. § 43-126 A marriage wherein one of the parties had not been divorced for six (6) months shall hereafter in this state be ground for annulment of marriage by either party.
Rhode Island	R.I. Gen. Laws § 15-5-23 (a) No judgment for a divorce shall become final and operative until three (3) months after the trial and decision. Final decree from the bond of marriage may be entered ex parte and in chambers on the suggestion of the prevailing party at any time within one hundred eighty (180) days next after the expiration of three (3) months from the date of decision. After the expiration of the one hundred eighty (180) days, final decrees may be entered only in open court and on motion or upon written consent of the attorneys or parties. Notice of the filing of the motion shall not be required in cases in which the original complaint is unanswered. (b) After entry of the final judgment for a divorce from the bond of marriage, either party may marry again.
Texas	Tex. Fam. Code § 6.801 (a) Except as otherwise provided by this subchapter, neither party to a divorce may marry a third party before the 31st day after the date the divorce is decreed. (b) The former spouses may marry each other at any time.
Wisconsin	Wis. Stat. § 765.03 ... (2) It is unlawful for any person, who is or has been a party to an action for divorce in any court in this state, or elsewhere, to marry again until 6 months after judgment of divorce is granted, and the marriage of any such person solemnized before the expiration of 6 months from the date of the granting of judgment of divorce shall be void.

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JOAN BALLWEG

STATE SENATOR · 14TH SENATE DISTRICT

**Assembly Bill 291: Marriage Waiting Period
Assembly Committee on Family Law
Testimony of Senator Joan Ballweg
October 11, 2023**

Good afternoon, Chair Rozar, and members of the committee. Thank you for hearing this legislation regarding Wisconsin's waiting period for remarriage after a divorce.

Assembly Bill 291 eliminates the redundant mandatory six month waiting period for someone to remarry after their divorce judgement has been finalized. Currently, Wisconsin is one of eight states as well as Washington D.C. that still has a mandatory waiting period to remarry, with no exception. Of those states, Wisconsin is one of the three longest government-mandated waiting periods in the country.

When a couple decides to divorce, they must go through a lengthy court process that has time built in to slow the proceedings. In Wisconsin, the court must wait a minimum of 120 days before a divorce judgement can be granted. When you include the six-month waiting period, this amounts to a total of at least 10 months before someone can remarry in Wisconsin once they begin the formal court process.

Many have probably heard the statistic that marriage rates in the U.S. have declined over time, but some might be surprised to learn that divorce rates have also declined to the lowest levels we have seen in 50 years. In fact, according to the Institute for Family Studies that used census data, "the median duration of current marriages in the U.S. has increased almost one year in the recent decade, from 19 years in 2010 to 19.8 years in 2019." The consistent decline in divorce rates occurred during the same period in which some argue states made it far too easy for people to divorce.

Additionally, some argue divorce and remarriage have potentially detrimental effects on children, which is why we should maintain a government-mandated waiting period. But, in many situations, someone is filing for divorce because of an unsafe situation for the child. In the U.S., there is often not a single factor resulting in a marriage ending. However, a 'final straw' is usually reported as the tipping point that caused someone to make the decision to divorce. This is the case in 69% of divorcing couples. While infidelity was the most common issue reported as the final straw for 24% of couples, domestic violence was reported for 21% of couples and 12% said substance abuse was the deciding issue. Wisconsin's waiting period has no exceptions to remarry, which can leave the parent and child in limbo before trying to move on with their lives.



JOAN BALLWEG

STATE SENATOR · 14TH SENATE DISTRICT

I agree marriage is a fundamental institution that is important to the strength of the family and our society. However, I recognize that every person's circumstances are different. The state should not determine when someone who is legally single can remarry, and I do not believe that an arbitrary waiting period of six months is the solution to increasing marriage rates and supporting stronger families.

This bill is being re-introduced from the previous two sessions (2021 AB 79 and 2019 AB 439) after passing the senate committee and Assembly floor with bipartisan support in 2019 and being unanimously recommended by the assembly committee in 2021.

The senate companion, Senate Bill 288, is receiving a vote by the senate committee this afternoon.

Thank you for your consideration, and I am happy to answer any questions.



JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

To: Assembly Committee on Family Law

From: Representative John Macco

Date: Wednesday, October 11th 2023

In Favor of AB 291

Chairman Rozar and Committee Members,

Thank you for holding a hearing for AB 291.

As a man of profound faith, I hold the institution of marriage in the highest regard. I fully recognize the desire to safeguard this sacred union and the benefits it gives to society and families and to the individuals who enter into it. My first wife Sue and I got married at 20 and had been married for 42 years. However, it is imperative to acknowledge that when the unfortunate event of divorce arises, the state should not be in the position of dictating who or when a person, regardless of children or economic status, may remarry. Keep in mind that as a widower, I suffered no such restrictions, as far as Wisconsin is concerned, whether I had minor children or not, I could have gotten re-married the day after Sue's passing.

I should preface that I am embarrassed that I need to even be here today, and further embarrassed to have to air my laundry in public.

To clarify the current process, the six-month waiting period before a divorced individual can receive a Wisconsin marriage certificate is not imposed after the original divorce filing, rather after what is, never less than six months **after** the filing, and almost always, after many months, or even **years** of protracted counseling and divorce process. For example, a woman abandoned and separated in the state of Maine, say in April, then to protect her minor child, retain her home and ability to even buy food files for divorce in June, then both partners agreeing and signing divorce documents say in September, but then not receiving final court filing until September the following year, under Wisconsin law would then be required to wait until April of the next year, fully two years after the original action, and fully 18 months after the settlement documents were signed, before being issued a Wisconsin marriage license. Those are the realities of this law. Regrettably, the reality of our court system's inefficiencies cannot be ignored. I do not support

jumping from one marriage to the next, as evident by my 42 year marriage and my current wife's 26 year. And the realities of the processes itself already ensures that any individual could not file for divorce on Tuesday and then get remarried on Wednesday. It already takes many months or years. These delays routinely extend beyond the statutory six-month waiting period and meanwhile both parties, frequently, have moved on.

This issue is personal to me as. The story and timeline I outlined above are not hypothetical, it is exactly what my wife Lynn and I were subject to. We were forced, even though her divorce took place in Maine, to comply with Wisconsin law and delay our marriage from September of 2022 to April of 2023. So we had a choice to make. Either stay separated for six months, live in sin for six months, or get licensed in a state without such a foolish law. In a private ceremony with the capital chaplain and his wife we were married in a quaint hotel on the river in Dubuque Iowa on October 14 last year, 2 weeks after the courts finally issued that papers that were signed a full year earlier. It is interesting that I am testifying today as our 1 year anniversary is 3 days from now. We were now legally married in 49 states. To be officially married in our home state, we then got remarried in April of this year. As a side note, this law is so obscure that both the Brown County Clerk as well as the Brown County Judge were at a loss as to how to issue us a Wisconsin license to us, and had to consult with council and have us come back 3 days latter to get the license. This law is truly a burden and illogical.

Some of you may say, so what, you could have a destination wedding in Hawaii or Las Vegas. Which we thought of since we'd be in Hawaii in January. But none of those marriages, done within that 6 month period, are recognized by Wisconsin.

Now so that you understand the risk of this law, especially in our situation, should we never have gotten re-married in Wisconsin, or one of us died, all of our estate retirement planning would be at jeopardy. Keep in mind that Wisconsin is a marital property state. In other words, there are provisions that insure the surviving spouse of assets and entitlements. Take my pension for example, the state of Wisconsin could say, upon my death, that my wife is not entitle to my pension as we were never legally married, in their eyes. The same could be true with disgruntled heirs or business entities, they could challenge a surviving spouses rights to assets. So, on top of all this nonsense, but being a former financial planner, I made sure we fully utilized beneficiary designations and joint tenancy registrations, and trust documents, it was a profound extra step to insure that my wife was protected until we could be re-married in Wisconsin. I can tell you from being in the financial planning industry for 20 years few clients would go through the expense or even know how to properly set that up.

As for the amendment being considered, I have talked with the chair and the amendment author that that amendment actually makes this law even worse and more cumbersome. If that amendment passes, I will vote no and actively speak against the bill. For us to now force

counseling or other type of government intrusion is short sighted and obstructionist. The state of Wisconsin has no business whatsoever interfering or putting restrictions on the issue of marriage licenses.

It is noteworthy that only seven states in our nation enforce waiting periods, and Wisconsin, alongside Nebraska, imposes the most extended waiting period. It is high time for Wisconsin to step away from this process and grant individuals the freedom to marry or to essentially force them to live together outside of marriage. without more unnecessary delays.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "John J. Macco", followed by a long horizontal line extending to the right.

John J. Macco
Representative
88th Assembly District



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**TESTIMONY ON ASSEMBLY BILL 291
PUBLIC HEARING – COMMITTEE ON FAMILY LAW
WEDNESDAY, OCTOBER 11, 2023
JACK HOOGENDYK, LEGISLATIVE AND POLICY DIRECTOR
WISCONSIN FAMILY ACTION**

Thank you, Chairwoman Rozar and committee members, for the opportunity to testify on Assembly Bill 291. I am Jack Hoogendyk, legislative policy director for Wisconsin Family Action. We work to defend and preserve life, family, marriage and religious freedom. Wisconsin Family Action strongly opposes this bill which proposes to eliminate the six-month waiting period to remarry after a divorce.

We oppose this change for five primary reasons:

1. **Minor children** should be a top concern in a divorce and remarriage situation. Research regularly and repeatedly shows minor children are very vulnerable emotionally, socially, physically, and academically when their parents are divorcing. Research also shows (and certainly common sense would confirm) that vulnerability increases when the children become part of a blended family with all the changes and adjustments that brings. The well-being of a child should be considered before her parents pursue their own personal desires.
2. **Divorce is stressful in multiple ways on the adults involved.** A waiting period provides time for the divorced individuals to recover before entering a new marriage.
3. **Remarriages are statistically more likely to end in divorce than are first marriages.** The state should do everything it can to encourage newly divorced individuals to be deliberate, thoughtful and fully prepared for marrying again. Ideally, the couple will engage in pre-marital counseling, which when done right can take from 3-6 months.
4. **The state has a vested interest in marriage and divorce, especially when children are involved** because the state is depending on future generations being well-adjusted, healthy, competent citizens who will become the next workforce, taxpayers, entrepreneurs, leaders, etc. Requiring their parents to wait before a remarriage after a divorce will help to ensure the well-being of children.
5. **Every divorce costs the taxpayers of Wisconsin.** Research has shown as much as \$30,000 in public costs result from each divorce. Vulnerable remarriages mean the state and its taxpayers will very likely be shouldering additional costs from more divorces.

I would like to speak a little more on the importance of a waiting period in situations where minor children are involved.

Marriage today, sadly, has become much more centered on the adults than the children. In other words, marriage is far more about adult desires and their perceived “happiness” than what is truly best for children. Remarriages often 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 the interests of children.

Ron Deal is a Licensed Marriage and Family Therapist and Licensed Professional Counselor with close to 30 years experience in marriage and family training. A highly sought after recognized expert in marriage and blended families, Mr. Deal is a member of the Stepfamily Expert Council for the National Stepfamily Resource Center.

In an article entitled "Ten Things To Know Before You Remarry," Mr. Deal suggests the following as it relates to children and divorced parents remarrying.

"Wait two to three years following a divorce or the death of your spouse before seriously dating....Most people need a few years to fully heal from the ending of a previous relationship. Moving into a new relationship short-circuits the healing process, so do yourself a favor and grieve the pain, don't run from it. In addition, your children will need at least this much time to heal and find stability in their visitation schedule."

Further, Deal says, **"Think about the kids.** Children experience numerous losses before entering a stepfamily. In fact, your remarriage is another. It sabotages their fantasy that Mom and Dad can reconcile, or that a deceased parent will always hold his or her place in the home. Seriously consider your children's losses before deciding to remarry. If waiting till your children leave home before you remarry is not an option, work to be sensitive to your children's loss issues. Don't rush them and don't take their grief away."

Ron Deal is just one professional counselor who specializes in blended families who understands the importance of time when blending families. Many others agree with him.

Let me read a statement from E. Lee Webster, a licensed family and marriage counselor from here in Wisconsin. "I am writing to express my concern about the Senate Bill 288 and its companion bill, AB 291. I am a Licensed Clinical Social Worker and have had over 40 years of professional counseling and supervisory experience. I believe that there are several reasons why the waiting period is important.

"Perhaps my biggest concern is for the children that will be innocently impacted by adult decisions. Of course, the best environment for them is to be raised by two committed parents in a healthy family. Their parents should provide a security base for them. That base is traumatized by a divorce, and they need time to heal and adjust. The introduction of another parental figure often interferes with their adjustment and is a difficult adjustment for the newly married couple as well.

"Secondly, a waiting period is important for the divorcing couples. There is a necessary period of time for 'grieving' the loss of the marriage. Often the divorcing parents develop better co-parenting relationships after a period to adjust to their new situation. In addition, the success of subsequent marital relationships is already at a higher risk than first marriages and a waiting period (with pre-marriage counseling) will lower that risk. Please consider these factors in your decision and table this proposed legislation."

Wisconsin Family Action urges committee members to vote no on Assembly Bill 291.