



RACINE OFFICE

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TO: Members of the Senate Committee on Committee on Human Services, Children and Families
FROM: Legal Action WI
RE: Impact of SB 116 on Legal Action's Clients
DATE: March 2, 2021

My name is Robert Bebb Held, and I am the Family Law Priority Coordinator of Legal Action of Wisconsin. Legal Action of Wisconsin (LAW) is a nonprofit law firm that provides free civil legal aid to low-income people in 39 of Wisconsin's southern counties. One of our priority areas is serving low-income, domestic abuse victims with their family law needs; we work to help victims become safe. Our Family Law attorneys may handle a variety of types of cases for domestic abuse victims, including domestic abuse and child abuse injunctions; divorce cases; maintenance and child support; child custody and placement; paternity, and modification of divorce, paternity, custody, placement, maintenance, or child support judgments, among other types of cases.

Legal Action is concerned that SB 116 will negatively impact our clients. The bill would allow courts to approve stipulated agreements between parties based on conditional events occurring within the next two years. Wisconsin courts have made clear that courts cannot make conditional custody or placement orders based on events which may or may not occur at some unknown point in the future (see, for example, *Koeller v. Koeller*, 195 Wis. 2d 160 (1995); *Culligan v. Cindric*, 2003 WI App 180).

Courts like certainty, and they do not like to speculate. Trying to speculate about *conditional events* can be difficult and dangerous, as there will always be unknown variables. This is particularly true for Legal Action's clients, for whom there is often a history of violence, control, and manipulation. Additionally, orders that change based on conditional events are difficult to enforce, as the enforcing agency does not always know if the conditional event has happened.

For example, imagine that Mom gets primary placement of Madison, while Dad gets placement for dinner two nights a week. At the time of the stipulation, Dad just got a new job, is going to anger management and AA, and seems like he's doing well. Optimistic, and hoping to encourage Dad's progression, Mom and Dad agree in stipulation that when Madison graduates from middle school next June, Madison will spend one week a month during the summer with Dad. Madison completes middle school, but now Dad is now drinking four times a week. Madison has had to have Mom pick her up early several times from Dad's house, because Dad was passed out drunk. Mom is worried about Madison's safety and well-being during their visits, but Dad is making threats if she goes to court to try to alter the conditional arrangement.

Exacerbating the concern, the court does not have a process for checking in after the conditional event has occurred to make sure that the new arrangement is going well or as expected. Any modification to a stipulated agreement must be initiated by a party going to court.

Green Bay Office Brown, Calumet, Door, Kewaunee, Manitowoc and Outagamie Counties | tel 920-432-4645 | toll-free 800-236-1127 | fax 920-432-5078

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Mom would not be in this situation if the agreement was based only on the current circumstances at the time of the stipulation, and if they just waited to make any changes until the event/time arose to change the stipulation. Although it is true that SB 116 may appear to save a trip to the courtroom, for our clients SB 116 would often make the process more complicated. If parents agree to a conditional stipulation and then need to make changes, now they need to go back to the court to try to amend the conditional stipulation, rather than just maintaining an original stipulation based on current circumstances. Again, SB 116 may not pose a problem for many people whose lives are relatively uncomplicated, but those are not our clients. SB 116 has the potential to make our clients' lives more difficult and more complicated.

Thank you for your consideration.

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