



**WISCONSIN FAMILY ACTION**  
Marriage|Family|Life|Liberty

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## **POSITION STATEMENT ON PROPOSAL TO ELIMINATE WISCONSIN'S STATUTORY REQUIREMENT OF A 6-MONTH WAITING PERIOD AFTER DIVORCE BEFORE REMARRYING**

### **Background**

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. (1971 Senate Bill 241, published April 11, 1972; Chapter 245 of the State Statutes become Chapter 765 in July 1979 per 1979 Senate Bill 176.)

### **Wisconsin Family Action Position**

This 6-month provision is for good reason and should not be changed.

### **Importance of Marriage**

The state of Wisconsin recognizes the importance of marriage as state 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. Under the laws of this state, marriage is a legal relationship between 2 equal persons, a husband and wife, who owe to each other mutual responsibility and support. Each spouse has an equal obligation in accordance with his or her ability to contribute money or services or both which are necessary for the adequate support and maintenance of his or her minor children and of the other spouse. No spouse may be presumed primarily liable for support expenses under this subsection.*

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 encouraging parents who bring children into the world to remain together as a married couple in particular for the well-being of the child/children. The presumption has been (and we would maintain correctly so) that in any male/female marriage, the possibility of procreation exists.

## **The State and Divorce**

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.

This very drastic change in divorce was within 5 years of changing the waiting period, both of which happened following the tumultuous 1960s, when our country underwent the so-called “sexual revolution.” It is reasonable to conclude changing the waiting period from one year to 6 months (see earlier) was the initial “nibble” on changing Wisconsin’s divorce law with the major “bite” coming five years later.

Some supporting the proposed bill in Wisconsin have asserted that “it is not the government’s role to determine when a divorced person should be allowed to re-marry.” As noted earlier, government has a very valid interest in protecting the next generation of Wisconsin citizens. While government should not be interested in anyone’s love life, government has a totally legitimate interest in creating public policy that is in the best interest of its future taxpayers, entrepreneurs, workers, inventors, and leaders.

Children are incredibly impacted by divorce, even in the best of marriage dissolutions.<sup>1</sup> In fact, especially to the point of this waiting period, experts report the first year after a divorce is the hardest and that remarriage comes with even more adjustments for children.<sup>2</sup> Research continues to show that parental remarriage negatively impacts, at a minimum, children’s academic success and psychological well-being.<sup>3</sup>

The authors of this proposal to completely eliminate the waiting period contend government “should be supporting individuals and families in these circumstances [*i.e.*, divorced and waiting for remarriage], not prohibiting them from marriage.” If government truly wants to support “individuals and families in these circumstances,” then it will retain the 6-month waiting period because that is in the best interest of all parties, but especially children.

## **Why Waiting Periods Are Good**

This is predicated on the idea that Wisconsin understands the importance of marriage and its valuable contributions to our state’s present, and certainly future, well-being. 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.

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<sup>1</sup> <https://www.verywellfamily.com/psychological-effects-of-divorce-on-kids-4140170>

<sup>2</sup> *Ibid.*

<sup>3</sup> [https://www.tandfonline.com/doi/abs/10.1300/J002v40n04\\_05](https://www.tandfonline.com/doi/abs/10.1300/J002v40n04_05)

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 the new relationship, etc. before they leap into marriage again.<sup>4</sup>

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.<sup>5</sup> 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.

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 days or even weeks 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.<sup>6</sup>

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.

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<sup>4</sup> <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>

<sup>5</sup> <http://healthresearchfunding.org/55-surprising-divorce-statistics-second-marriages/>

<sup>6</sup> <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 (most recent data available), interestingly for the first time does not include any reference to children or any statistics involving them.

## Other States

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” eleven (11) years ago was \$737 million.<sup>7</sup> Obviously, a large portion of this cost is from divorce.<sup>8</sup> 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.<sup>9</sup> 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.

## Summary

Removing Wisconsin's 6-month waiting period for remarriage after a divorce is not good policy. ***Wisconsin Family Action strongly urges that legislators not co-sponsor LRB-3762/1, authored by Rep. Cindi Duchow and Sen. Alberta Darling, nor support the proposal in any way.***

Wisconsin should continue its good history of prudent policy that is truly in its citizens' best interest and its own best interest.

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<sup>7</sup> <http://americanvalues.org/catalog/pdfs/COFF.pdf>

<sup>8</sup> “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

<sup>9</sup> <https://www.dhs.wisconsin.gov/publications/p45359-15.pdf>