Wisconsin Best Interests of the Child Definition Act

Dear Senator or Representative,

My name is _____, and I am respectfully requesting a brief 15 to 30 minute Zoom call to discuss proposed legislation for Wisconsin that would clearly define the phrase “best interests of the child” in family court.

This bill is designed to create consistency, accountability, and evidence based decision making in custody and parenting time cases.

This proposal would define the term, protect children’s physical safety, psychological well being, emotional development, stability, and overall welfare, and require courts to connect decisions to evidence through written findings of fact and conclusions of law.

I would be grateful for the opportunity to discuss how this legislation can be adapted for Wisconsin. Thank you for your time and public service.

Respectfully,
Name

Background for the Bill

The phrase “best interests of the child” is one of the most important standards in family court. It affects custody, parenting time, decision making rights, restrictions, and the parent child relationship.

When a legal standard is vague, it allows broad discretion and inconsistent results. A clear definition helps protect children, informs parents, guides courts, reduces litigation, and creates a record for meaningful review.

This bill does not prevent courts from protecting children from abuse, neglect, domestic violence, abandonment, or substantial harm. It simply requires courts to apply a clear definition based on evidence.

Bill Draft

Drafted by: Robert Garza

A BILL TO BE ENTITLED

An Act relating to the definition of the phrase “best interests of the child” in Wisconsin family court proceedings.

SECTION 1. SHORT TITLE.

1.01 This Act shall be known and may be cited as the “Wisconsin Best Interests of the Child Definition Act.”

SECTION 2. DEFINITION.

2.01

(A) “Best interests of the child” means protecting the child’s physical safety, psychological well being, emotional development, stability, and overall welfare while preserving the child’s frequent, continuing, and meaningful relationship with both fit parents unless the court finds, by clear and convincing evidence, that such contact would cause substantial harm to the child.

(B) “Substantial restriction” means any court ordered limitation, reduction, suspension, supervision, denial, condition, or impairment affecting a parent’s custody, parenting time, possession, access, communication, or decision making authority.

SECTION 3. EVIDENTIARY STANDARD.

3.01 A court may impose a substantial restriction upon a fit parent’s custody, parenting time, possession, access, visitation, communication, or decision making authority only upon clear and convincing evidence that the restriction is necessary to prevent substantial harm to the child.

SECTION 4. REQUIRED FINDINGS.

4.01 Any order substantially restricting a parent’s custody, parenting time, visitation, or decision making authority shall include written findings of fact and conclusions of law identifying the evidence supporting the restriction.

4.02 The court shall enter such findings contemporaneously with the order.

4.03 Failure to make required findings under this section constitutes reversible error.

SECTION 5. CONSTRUCTION.

5.01 Nothing in this Act shall prevent a court from taking immediate action necessary to protect a child from abuse, neglect, domestic violence, abandonment, or imminent harm.

SECTION 6. EFFECTIVE DATE.

6.01 This Act takes effect on the general effective date provided by law.