



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1439/1
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2015 ASSEMBLY BILL 193

April 27, 2015 – Introduced by Representatives LOUDENBECK, RODRIGUEZ, BALLWEG, BILLINGS, E. BROOKS, DOYLE, EDMING, JAGLER, JOHNSON, KAHL, KITCHENS, KLEEFISCH, KOLSTE, KRUG, MURPHY, OHNSTAD, A. OTT, QUINN, SUBECK and ZAMARRIPA, cosponsored by Senators PETROWSKI, HARRIS DODD, MOULTON, OLSEN and RINGHAND. Referred to Committee on Children and Families.

1 **AN ACT to amend** 48.02 (15), 48.21 (5) (e) 1., 938.02 (15) and 938.21 (5) (e) 1. of
2 the statutes; **relating to:** the notification of relatives when a child is removed
3 from the custody of the child’s parent and placement of a child with a parent of
4 a sibling of the child who has custody of the sibling.

Analysis by the Legislative Reference Bureau

Under the Children’s Code and the Juvenile Justice Code, a child may be placed with a relative when the child is taken into temporary custody, as a disposition, or as a permanent placement. In addition, in a dispositional order for a child in need of protection or services (CHIPS) proceeding, if there is no less drastic alternative for a child than transferring custody from the parent, the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) must consider transferring custody to a relative whenever possible. The agency preparing a permanency plan for a child must also include in the plan a statement as to the availability of a safe and appropriate placement with a fit and willing relative of the child and, if a decision is made not to place the child with an available relative, a statement as to why placement with the relative is not safe or appropriate. Finally, before the Department of Children and Families (DCF), a county department of human services or social services (county department), or a child welfare agency may place a child for adoption, that agency must consider the availability of an adoptive placement with a relative of the child who is identified in the permanency plan or otherwise known by that agency. This bill adds to the relatives with whom a child may be placed

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under these circumstances a parent of a sibling of the child who has legal custody of that sibling.

Under current law, when a child is removed from the custody of the child's parent, the juvenile court must order DCF, the county department, or the agency primarily responsible for providing services to the child under the custody order to attempt to locate certain adult relatives of the child and provide them with certain information related to the removal within 30 days after the removal. That information includes notice that the child has been removed from the custody of the child's parents and an explanation of the options that the adult relative has to participate in the care and placement of the child. This bill adds to the adult relatives to whom such notice must be provided a parent of a sibling of the child who has legal custody of that sibling.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.02 (15) of the statutes is amended to read:

2 48.02 (15) "Relative" means a parent, stepparent, brother, sister, stepbrother,
3 stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd
4 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding
5 generation as denoted by the prefix of grand, great, or great-great, whether by blood,
6 marriage, or legal adoption, or the spouse of any person named in this subsection,
7 even if the marriage is terminated by death or divorce. For purposes of the
8 application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to
9 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am),
10 whether by blood, marriage, or adoption, including adoption under tribal law or
11 custom. For purposes of placement of a child, "relative" also includes a parent of a
12 sibling of the child who has legal custody of that sibling.

13 **SECTION 2.** 48.21 (5) (e) 1. of the statutes is amended to read:

14 48.21 (5) (e) 1. In this paragraph, "adult relative" means a grandparent,
15 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a child

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1 or a parent of a sibling of the child who has legal custody of that sibling, whether by
2 blood, marriage, or legal adoption, who has attained 18 years of age.

3 **SECTION 3.** 938.02 (15) of the statutes is amended to read:

4 938.02 (15) "Relative" means a parent, stepparent, brother, sister, stepbrother,
5 stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd
6 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding
7 generation as denoted by the prefix of grand, great, or great-great, whether by blood,
8 marriage, or legal adoption, or the spouse of any person named in this subsection,
9 even if the marriage is terminated by death or divorce. For purposes of the
10 application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to
11 1963, "relative" includes an extended family member, as defined in s. 938.028 (2) (a),
12 whether by blood, marriage, or adoption, including adoption under tribal law or
13 custom. For purposes of placement of a juvenile, "relative" also includes a parent of
14 a sibling of the juvenile who has legal custody of that sibling.

15 **SECTION 4.** 938.21 (5) (e) 1. of the statutes is amended to read:

16 938.21 (5) (e) 1. In this paragraph, "adult relative" means a grandparent,
17 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a
18 juvenile or a parent of a sibling of the juvenile who has legal custody of that sibling,
19 whether by blood, marriage, or legal adoption, who has attained 18 years of age.

20 **SECTION 5. Initial applicability.**

21 (1) TEMPORARY PHYSICAL CUSTODY ORDERS. The treatment of sections 48.21 (5)
22 (e) 1. and 938.21 (5) (e) 1. of the statutes first applies to a temporary physical custody
23 order entered on the effective date of this subsection.

