



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4626/1  
EAW:amn

## 2019 ASSEMBLY BILL 566

October 23, 2019 - Introduced by Representatives KULP, DOYLE, DITTRICH, FELZKOWSKI, JAMES, KATSMA, KURTZ, MAGNAFICI, MILROY, MURPHY, MURSAU, RAMTHUN, TUSLER, THIESFELDT and TRANEL. Referred to Committee on Family Law.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1 **AN ACT to amend** 48.417 (1) (intro.), 48.417 (2) (intro.), 48.42 (1) (intro.), 48.42  
2 (1m) (a), 48.831 (3), 938.23 (3) and 938.23 (4); and **to create** 48.23 (2) (bm) and  
3 48.42 (1d) of the statutes; **relating to:** the procedure in a CHIPS or JIPS  
4 proceeding for an involuntary termination of parental rights.

---

### *Analysis by the Legislative Reference Bureau*

This bill allows a petition to terminate parental rights (TPR) to be filed in a proceeding in which it is alleged that a child or juvenile is in need of protection or services (CHIPS or JIPS).

Under current law, a TPR proceeding is initiated by filing a petition with the court assigned to exercise jurisdiction under the Children's Code (juvenile court). A TPR petition initiates a new proceeding that is unrelated to any other ongoing proceedings concerning the child in the juvenile court. Under this bill, a petition to terminate parental rights may be filed in an ongoing CHIPS or JIPS proceeding for the same child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

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

5 **SECTION 1.** 48.23 (2) (bm) of the statutes is created to read:

**ASSEMBLY BILL 566****SECTION 1**

1           48.23 (2) (bm) If a petition to terminate parental rights is filed under s. 48.42  
2 (1d) in a proceeding involving a child or juvenile alleged to be in need of protection  
3 or services under s. 48.13 or 938.13, any parent who appears before the court shall  
4 be represented by counsel as provided under par. (b), beginning with the filing of the  
5 petition under s. 48.42 (1d).

6           **SECTION 2.** 48.417 (1) (intro.) of the statutes is amended to read:

7           48.417 (1) FILING OR JOINING IN PETITION; WHEN REQUIRED. (intro.) Subject to sub.  
8 (2), an agency or the district attorney, corporation counsel or other appropriate  
9 official designated under s. 48.09 shall file a petition under s. 48.42 (1) or (1d) to  
10 terminate the parental rights of a parent or the parents of a child, or, if a petition  
11 under s. 48.42 (1) or (1d) to terminate those parental rights has already been filed,  
12 the agency, district attorney, corporation counsel or other appropriate official shall  
13 join in the petition, if any of the following circumstances apply:

14           **SECTION 3.** 48.417 (2) (intro.) of the statutes is amended to read:

15           48.417 (2) FILING OR JOINING IN PETITION; WHEN NOT REQUIRED. (intro.)  
16 Notwithstanding that any of the circumstances specified in sub. (1) (a), (b), (c) or (d)  
17 may apply, an agency or the district attorney, corporation counsel or other  
18 appropriate official designated under s. 48.09 need not file a petition under s. 48.42  
19 (1) or (1d) to terminate the parental rights of a parent or the parents of a child, or,  
20 if a petition under s. 48.42 (1) or (1d) to terminate those parental rights has already  
21 been filed, the agency, district attorney, corporation counsel or other appropriate  
22 official need not join in the petition, if any of the following circumstances apply:

23           **SECTION 4.** 48.42 (1) (intro.) of the statutes is amended to read:

24           48.42 (1) PETITION. (intro.) -A Except as provided under sub. (1d), a proceeding  
25 for the termination of parental rights shall be initiated by petition which may be filed

**ASSEMBLY BILL 566**

1 by the child's parent, an agency or a person authorized to file a petition under s. 48.25  
2 or 48.835. The petition shall be entitled "In the interest of ..... (child's name), a  
3 person under the age of 18" and shall set forth with specificity:

4 **SECTION 5.** 48.42 (1d) of the statutes is created to read:

5 48.42 (1d) PETITION IF CHILD OR JUVENILE ALLEGED TO BE IN NEED OF PROTECTION  
6 OR SERVICES. If there is an open proceeding under s. 48.13 or 938.13 for the child, the  
7 termination of parental rights may be initiated by filing a petition in that open  
8 proceeding. A petition under this subsection shall set forth with specificity the  
9 information required in sub. (1) (c) and (e) and shall be subject to the procedures of  
10 this subchapter.

11 **SECTION 6.** 48.42 (1m) (a) of the statutes is amended to read:

12 48.42 (1m) (a) If the petition filed under sub. (1) or (1d) includes a statement  
13 of the grounds for involuntary termination of parental rights under sub. (1) (c) 2., the  
14 petitioner may, at the time the petition under sub. (1) or (1d) is filed, also petition the  
15 court for a temporary order and an injunction prohibiting the person whose parental  
16 rights are sought to be terminated from visiting or contacting the child who is the  
17 subject of the petition under sub. (1) or (1d). Any petition under this paragraph shall  
18 allege facts sufficient to show that prohibiting visitation or contact would be in the  
19 best interests of the child.

20 **SECTION 7.** 48.831 (3) of the statutes is amended to read:

21 48.831 (3) FACT-FINDING HEARING. The court shall hold a fact-finding hearing  
22 on the petition, at which any party may present evidence relevant to the issue of  
23 whether the child has a living parent. If the court finds that the child has a living  
24 parent, the court shall dismiss the petition or grant the petitioner leave to amend the  
25 petition to a petition under s. 48.42 (1) or (1d).

**ASSEMBLY BILL 566****SECTION 8**

1           **SECTION 8.** 938.23 (3) of the statutes is amended to read:

2           938.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except as provided in this  
3 subsection, at any time, upon request or on its own motion, the court may appoint  
4 counsel for the juvenile or any party, unless the juvenile or the party has or wishes  
5 to retain counsel of his or her own choosing. ~~Except as provided in sub. (2g), the court~~  
6 ~~may not appoint counsel for any party other than the juvenile in a proceeding under~~  
7 ~~s. 938.13.~~

8           **SECTION 9.** 938.23 (4) of the statutes is amended to read:

9           938.23 (4) PROVIDING COUNSEL. If a juvenile has a right to be represented by  
10 counsel or is provided counsel at the discretion of the court under this section and  
11 counsel is not knowingly and voluntarily waived, the court shall refer the juvenile  
12 to the state public defender and counsel shall be appointed by the state public  
13 defender under s. 977.08 without a determination of indigency. ~~In any situation~~  
14 ~~under sub. (2g) in which~~ If a parent 18 years of age or over is entitled to  
15 representation by counsel; counsel is not knowingly and voluntarily waived; and it  
16 appears that the parent is unable to afford counsel in full, or the parent so indicates;  
17 the court shall refer the parent to the authority for indigency determinations  
18 specified under s. 977.07 (1). In any other situation under this section in which a  
19 person has a right to be represented by counsel or is provided counsel at the  
20 discretion of the court, competent and independent counsel shall be provided and  
21 reimbursed in any manner suitable to the court regardless of the person's ability to  
22 pay, except that the court may not order a person who files a petition under s. 813.122  
23 or 813.125 to reimburse counsel for the juvenile who is named as the respondent in  
24 that petition.

25

(END)