



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1258/1  
EAW:cjs

## 2021 ASSEMBLY BILL 626

October 21, 2021 - Introduced by Representatives DITTRICH, GUNDRUM, MURSAU, TUSLER and SNYDER. Referred to Committee on Family Law.

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

1     **AN ACT to create** 48.02 (5e), 48.13 (15) and 48.415 (11) of the statutes; **relating**  
2           **to:** grounds for finding a child in need of protection or services or for  
3           terminating parental rights.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the juvenile court can order that a child is in need of protection or services (CHIPS) or can terminate parental rights to a child (TPR) if the court finds that grounds are met for CHIPS or TPR. This bill creates a new ground for CHIPS and TPR where a child is found to be a drug-affected child.

Under the bill, the juvenile court may enter a CHIPS order for a child if it finds one of the following:

1) The child suffered prenatal exposure to alcohol or a controlled substance and the CHIPS petition was filed within 18 months of the child's birth.

2) The child's basic needs and safety have been adversely affected by a parent's or guardian's chronic and severe use of alcohol or a controlled substance.

Under the bill, the juvenile court may order TPR for a child who is placed outside the home pursuant to a CHIPS order finding that the child's basic needs and safety have been adversely affected by a parent's chronic and severe use of alcohol or a controlled substance if the court also finds that there is a substantial likelihood that the parent will not meet the conditions for the safe return of the child to the home as specified in the child's permanency plan and that the parent is not seeking

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treatment or complying with a treatment program. Also, the juvenile court may not order TPR if the parent is participating in a drug court program.

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

1           **SECTION 1.** 48.02 (5e) of the statutes is created to read:

2           48.02 (5e) “Drug-affected child” means any of the following:

3           (a) A child who suffered prenatal exposure to a controlled substance or alcohol,  
4           used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms  
5           in the child at birth, a positive result from a toxicology test of the mother or child at  
6           the time of the child’s birth, or developmental delays or other symptoms during the  
7           child’s first year of life that have been diagnosed as a fetal alcohol spectrum disorder  
8           or as caused by prenatal exposure to a controlled substance.

9           (b) A child whose basic needs, as described in s. 48.01 (1) (ag), and safety have  
10          been adversely affected by a parent’s or guardian’s chronic and severe use of alcohol  
11          or a controlled substance.

12          **SECTION 2.** 48.13 (15) of the statutes is created to read:

13          48.13 (15) (a) The child is a drug-affected child, as defined in s. 48.02 (5e) (a),  
14          and the petition is filed within 18 months of the child’s birth.

15          (b) The child is a drug-affected child, as defined in s. 48.02 (5e) (b).

16          **SECTION 3.** 48.415 (11) of the statutes is created to read:

17          48.415 (11) DRUG-AFFECTED CHILD. The child is a drug-affected child, which  
18          shall be established by proving all of the following:

19          (a) That the child has been adjudged to be a child in need of protection or  
20          services under s. 48.13 (15) (b) and placed outside the home pursuant to one or more  
21          court orders under s. 48.345, 48.347, 48.357, 48.363, or 48.365.

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1 (b) That one of the following applies:

2 1. The parent has not made reasonable efforts to enroll in a substance use  
3 disorder treatment or recovery program within 90 days of the placement of the child  
4 outside the home pursuant to one or more court orders under s. 48.345, 48.347,  
5 48.357, 48.363, or 48.365.

6 2. The parent enrolled in a substance use disorder treatment or recovery  
7 program after placement of the child outside the home pursuant to one or more court  
8 orders under s. 48.345, 48.347, 48.357, 48.363, or 48.365 but has not maintained  
9 substantial compliance with the program.

10 (c) That the parent is not participating in a drug court program described in  
11 s. 165.955 (1).

12 (d) That there is a substantial likelihood that the parent will not meet the  
13 conditions for the safe return of the child to the home by the anticipated date that  
14 the child's permanency goal will be achieved, as specified in the child's permanency  
15 plan under s. 48.38.

16 **SECTION 4. Initial applicability.**

17 (1) DRUG AFFECTED CHILD; CHILD IN NEED OF PROTECTION OR SERVICES. The  
18 treatment of s. 48.13 (15) first applies to a petition filed under s. 48.13 on the effective  
19 date of this subsection.

20 (2) DRUG AFFECTED CHILD; TERMINATION OF PARENTAL RIGHTS. The treatment of s.  
21 48.415 (11) first applies to a court order required to contain the notice under s. 48.356  
22 (2) or 938.356 (2) granted on the effective date of this subsection.

23 (END)