



2015 ASSEMBLY BILL 955

February 26, 2016 - Introduced by Representatives BILLINGS, KAHL, DOYLE, OHNSTAD, SPREITZER and WACHS, cosponsored by Senators LASSA, C. LARSON and RINGHAND. Referred to Committee on Children and Families.

1 **AN ACT** *to amend* 48.02 (12g), 48.13 (10), 48.13 (10m), 48.33 (1) (b), 48.355 (1),
2 48.981 (3) (c) 2. a. and 48.981 (3) (c) 2m. a. of the statutes; **relating to:** the
3 definition of neglect in the Children's Code.

Analysis by the Legislative Reference Bureau

This bill changes the definition of "neglect" in the Children's Code. Under current law, a caregiver neglects a child if he or she fails, refuses, or is unable to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child. The bill removes the word "physical" from that definition and from descriptions of neglect throughout the Children's Code for purposes of removing a child from the home and establishing the jurisdiction over a child in need of protection or services of the court assigned to exercise jurisdiction under the Children's Code.

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

4 **SECTION 1.** 48.02 (12g) of the statutes is amended to read:
5 48.02 (**12g**) "Neglect" means failure, refusal or inability on the part of a
6 caregiver, for reasons other than poverty, to provide necessary care, food, clothing,

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1 medical or dental care or shelter so as to seriously endanger the ~~physical~~ health of
2 the child.

3 **SECTION 2.** 48.13 (10) of the statutes is amended to read:

4 48.13 (10) Whose parent, guardian or legal custodian neglects, refuses, or is
5 unable for reasons other than poverty to provide necessary care, food, clothing,
6 medical or dental care, or shelter so as to seriously endanger the ~~physical~~ health of
7 the child;

8 **SECTION 3.** 48.13 (10m) of the statutes is amended to read:

9 48.13 (10m) Whose parent, guardian, or legal custodian is at substantial risk
10 of neglecting, refusing, or being unable for reasons other than poverty to provide
11 necessary care, food, clothing, medical or dental care, or shelter so as to endanger
12 seriously the ~~physical~~ health of the child, based on reliable and credible information
13 that the child's parent, guardian, or legal custodian has neglected, refused, or been
14 unable for reasons other than poverty to provide necessary care, food, clothing,
15 medical or dental care, or shelter so as to endanger seriously the ~~physical~~ health of
16 another child in the home;

17 **SECTION 4.** 48.33 (1) (b) of the statutes is amended to read:

18 48.33 (1) (b) A recommended plan of rehabilitation or treatment and care for
19 the child or expectant mother ~~which~~ that is based on the investigation conducted by
20 the agency and any report resulting from an examination or assessment under s.
21 48.295, ~~which~~ that employs the least restrictive means available to accomplish the
22 objectives of the plan, and, in cases of child abuse or neglect or unborn child abuse,
23 ~~which~~ that also includes an assessment of risks to the physical safety and ~~physical~~
24 health of the child or unborn child and a description of a plan for controlling the risks.

25 **SECTION 5.** 48.355 (1) of the statutes is amended to read:

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1 48.355 (1) INTENT. In any order under s. 48.345 or 48.347 the judge shall decide
2 on a placement and treatment finding based on evidence submitted to the judge. The
3 disposition shall employ those means necessary to maintain and protect the
4 well-being of the child or unborn child ~~which~~ that are the least restrictive of the
5 rights of the parent and child, of the rights of the parent and child expectant mother,
6 or of the rights of the adult expectant mother, and ~~which~~ that assure the care,
7 treatment, or rehabilitation of the child and the family, of the child expectant mother,
8 the unborn child, and the family or of the adult expectant mother and the unborn
9 child, consistent with the protection of the public. When appropriate, and, in cases
10 of child abuse or neglect or unborn child abuse, when it is consistent with the best
11 interest of the child or unborn child in terms of physical safety and ~~physical~~ health,
12 the family unit shall be preserved and there shall be a policy of transferring custody
13 of a child from the parent or of placing an expectant mother outside of her home only
14 when there is no less drastic alternative. If there is no less drastic alternative for a
15 child than transferring custody from the parent, the judge shall consider
16 transferring custody to a relative whenever possible.

17 **SECTION 6.** 48.981 (3) (c) 2. a. of the statutes is amended to read:

18 48.981 (3) (c) 2. a. If the person making the investigation is an employee of the
19 county department or, in a county having a population of 500,000 or more, the
20 department or a licensed child welfare agency under contract with the department
21 and he or she determines that it is consistent with the child's best interest in terms
22 of physical safety and ~~physical~~ health to remove the child from his or her home for
23 immediate protection, he or she shall take the child into custody under s. 48.08 (2)
24 or 48.19 (1) (c) and deliver the child to the intake worker under s. 48.20.

25 **SECTION 7.** 48.981 (3) (c) 2m. a. of the statutes is amended to read:

