



2009 SENATE BILL 433

December 21, 2009 - Introduced by Senators LAZICH, PLALE and DARLING, cosponsored by Representatives TOWNSEND, A. WILLIAMS, GUNDERSON, PETROWSKI and KNODL. Referred to Committee on Children and Families and Workforce Development.

1 **AN ACT to amend** 48.13 (3m), 48.13 (10m) and 48.427 (7) (a); and **to create**
2 48.415 (11) of the statutes; **relating to:** child in need of protection or services
3 jurisdiction over a child based on another child from the child's home being
4 placed outside the home under a juvenile court order and involuntary
5 termination of parental rights on the grounds of three or more prior voluntary
6 or involuntary terminations of parental rights.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) has exclusive original jurisdiction over a child who is alleged to be in need of protection or services that can be ordered by the juvenile court and who meets certain grounds, including any of the following:

1. The child has been the victim of abuse (abuse).
2. The child is at substantial risk of becoming the victim of abuse, based on reliable and credible information that another child in the home has been the victim of abuse (substantial risk of abuse).
3. The child's parent, guardian, or legal custodian neglects, refuses, or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child (neglect).

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4. The child’s parent, guardian, or legal custodian is at substantial risk of neglect based on reliable and credible information that the parent, guardian, or legal custodian has neglected another child in the home (substantial risk of neglect).

This bill expands the substantial risk of abuse and substantial risk of neglect grounds for child in need of protection or services jurisdiction (CHIPS jurisdiction) by granting to the juvenile court CHIPS jurisdiction over a child: 1) who is at substantial risk of abuse based on the fact that another child from the child’s home has been adjudged to be in need of protection or services based on abuse or substantial risk of abuse and is placed outside the home under a juvenile court order; or 2) whose parent, guardian, or legal custodian is at substantial risk of neglect based on the fact that another child from the child’s home has been adjudged to be in need of protection or services based on neglect or substantial risk of neglect and is placed outside the home under a juvenile court order.

Under current law, the juvenile court may order an involuntary termination of parental rights (TPR) on certain grounds, including the ground of prior involuntary TPR to another child, which is established by proving: 1) that the child has been adjudged to be in need of protection or services on the grounds of abandonment, abuse, or neglect or that the child was born after the filing of a petition for TPR to a sibling of the child on that TPR ground; and 2) that, within three years prior to the date of that adjudication or the birth of the child, the juvenile court has ordered an involuntary TPR with respect to another child of the parent.

This bill permits the juvenile court to order an involuntary TPR to a child on the ground of prior *voluntary or* involuntary TPR to another child, which is established by proving: 1) that the child has been adjudged to be in need of protection or services on the grounds of abandonment, abuse, substantial risk of abuse, neglect, or substantial risk of neglect or that the child was born after the filing of a petition for TPR to a sibling of the child on that TPR ground; and 2) that the juvenile court has ordered a voluntary or involuntary TPR with respect to three or more other children of the parent.

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:

1 **SECTION 1.** 48.13 (3m) of the statutes is amended to read:
2 48.13 **(3m)** Who is at substantial risk of becoming the victim of abuse, as
3 defined in s. 48.02 (1) (a), (b), (c), (d), (e), (f), or (g), including injury that is
4 self-inflicted or inflicted by another, based on reliable and credible information that
5 another child in the home has been the victim of such abuse or on the fact that

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1 another child from the child's home has been adjudged to be in need of protection or
2 services under this subsection or sub. (3) and is placed outside the home under an
3 order under s. 48.345, 48.357, 48.363, or 48.365;

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

5 48.13 (10m) Whose parent, guardian or legal custodian is at substantial risk
6 of neglecting, refusing or being unable for reasons other than poverty to provide
7 necessary care, food, clothing, medical or dental care or shelter so as to endanger
8 seriously the physical health of the child, based on reliable and credible information
9 that the child's parent, guardian or legal custodian has neglected, refused or been
10 unable for reasons other than poverty to provide necessary care, food, clothing,
11 medical or dental care or shelter so as to ~~endanger~~ seriously endanger the physical
12 health of another child in the home or on the fact that another child from the child's
13 home has been adjudged to be in need of protection or services under this subsection
14 or sub. (10) and is placed outside the home under an order under s. 48.345, 48.357,
15 48.363, or 48.365;

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

17 48.415 (11) PRIOR VOLUNTARY OR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS
18 TO ANOTHER CHILD. Prior voluntary or involuntary termination of parental rights to
19 another child, which shall be established by proving all of the following:

20 (a) That the child who is the subject of the petition has been adjudged to be in
21 need of protection or services under s. 48.13 (2), (3), (3m), (10), or (10m); or that the
22 child who is the subject of the petition was born after the filing of a petition under
23 this subsection whose subject is a sibling of the child.

24 (b) That a court has ordered the termination of parental rights with respect to
25 3 or more other children of the person whose parental rights are sought to be

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1 terminated based on the consent of that person under s. 48.41 or on one or more of
2 the grounds specified in this section.

3 **SECTION 4.** 48.427 (7) (a) of the statutes is amended to read:

4 48.427 (7) (a) If an order is entered under sub. (3), the court may orally inform
5 the parent or parents who appear in court of the ground for termination of parental
6 rights specified in s. 48.415 (10) or (11).

7 **SECTION 5. Initial applicability.**

8 (1) CHILD IN NEED OF PROTECTION OR SERVICES. The treatment of section 48.13
9 (3m) and (10m) of the statutes first applies to a petition under section 48.255 of the
10 statutes alleging that a child is in need of protection or services filed on the effective
11 date of this subsection.

12 (2) TERMINATION OF PARENTAL RIGHTS. The treatment of sections 48.415 (11) and
13 48.427 (7) (a) of the statutes first applies to a petition for termination of parental
14 rights under section 48.42 (1) of the statutes filed on the effective date of this
15 subsection but does not preclude consideration of prior orders of a court terminating
16 parental rights with respect to a child who is not the subject of the petition in
17 determining whether to terminate, or to find grounds to terminate, the parental
18 rights of a person under section 48.415 (11) of the statutes, as created by this act.

19 (END)