



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

<b>2013 Assembly Bill 581</b>	<b>Assembly Amendments 3, 4, and 5, and Assembly Amendment 1 to Assembly Amendment 4</b>
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2013 Assembly Bill 581 relates to advertising related to adoption or other permanent physical placements of a child, delegation of parental power regarding the care and custody of a child for more than one year, unauthorized interstate placements of children, requesting a study of adoption disruption and dissolution, and providing penalties.

### **2013 ASSEMBLY BILL 581**

Current law places restrictions on advertising related to adoption. Current law also allows delegation of parental powers to an agent, for a period up to one year. The bill does all of the following:

- Specifies that “advertising” includes communications by any computerized communication system, including by electronic mail, Internet site, Internet profile, or any similar medium of communication provided via the Internet.
- Provides that the restrictions on advertising related to adoption of a child also apply to any other permanent physical placement of a child.
- Limits the allowance for a parent to advertise for the adoption of his or her own child to allow advertising only if the child is less than one year old.
- Permits a delegation of powers regarding care and custody of a child that is allowed under current law to remain in effect for longer than one year if the delegation is approved by a court, under a procedure created in the bill.
- Creates a misdemeanor crime for bringing a child into the state in order to permanently transfer physical custody to a non-relative.

- Requests a Joint Legislative Council study on adoption disruption and dissolution in this state.

### **ASSEMBLY AMENDMENT 3**

Assembly Amendment 3 provides that if a delegation of parental powers for over one year is to a relative, then court approval is not required.

### **ASSEMBLY AMENDMENT 4, AS AMENDED BY ASSEMBLY AMENDMENT 1 TO ASSEMBLY AMENDMENT 4**

Assembly Amendment 4, as amended by Assembly Amendment 1 to the amendment, makes the following revisions to the bill:

- Creates a definition of “Internet account” for the purposes of the bill. An “Internet account” is defined as an account created within a bounded system established by an Internet-based service that requires a user to input or store access information in an electronic device in order to view, create, use, or edit the user’s account information, profile, display, communications, or stored data.
- Repeals the provision in current law that allows a parent to advertise for the placement of his or her child for adoption, in order to prohibit any such advertising by a parent.
- Requires a petition for court approval of a delegation of parental powers for over one year to state whether the child may be subject to the Wisconsin statutes relating to Indian child welfare (commonly referred to as “WICWA”), in addition to the federal Indian Child Welfare Act (ICWA), as required under the bill, in order to allow, but not require, a court to apply WICWA standards in the action.
- Specifies that in addition to serving a “notice” of a petition for court approval of a delegation of parental powers for over one year, the petition itself must be served.
- Specifies that, in the bill’s criminal penalty for an unauthorized interstate placement of a child with a non-relative, a “relative” has the general definition given for actions under the Children’s Code. Under this definition, a “relative” means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, second cousin, nephew, niece, uncle, aunt, stepuncle, steppaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce.

## **ASSEMBLY AMENDMENT 5**

Assembly Amendment 5 provides that, if a court receives notice that a child who is the subject of a petition for court approval of a delegation of parental powers for over one year may be an Indian child, the court is required to apply the WICWA provisions, rather than being allowed discretion in whether or not to apply those provisions in its consideration of the matter. As in other child welfare actions that are subject to WICWA, this requires a court to provide notice to an Indian child's tribe, to allow the tribe to intervene in the action or take jurisdiction, and to consider a specific ordering of placement preferences as for an adoptive placement of an Indian child.

Additionally, by incorporating the WICWA standards under Assembly Amendment 5, the allowance under Assembly Amendment 3 for delegation of parental powers for over one year to a "relative" without court approval thereby includes delegation to an "extended family member" as defined by the law or custom of a child's tribe.

## **BILL HISTORY**

On January 28, 2014, the Assembly Committee on Family Law took executive action on the bill. The committee recommended adoption of Assembly Amendment 3 on a vote of Ayes, 8; Noes, 0. The committee introduced Assembly Amendment 1 to Assembly Amendment 4 by unanimous consent, and recommended adoption of Assembly Amendment 1 to Assembly Amendment 4, and adoption of Assembly Amendment 4, as amended, on consecutive votes of Ayes, 8; Noes, 0. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 8; Noes, 0.

On February 13, 2014, the Assembly adopted Assembly Amendments 3, 4, and 5, and Assembly Amendment 1 to Assembly Amendment 4, on voice votes, and passed the bill, as amended, on a vote of Ayes, 97; Noes, 0.

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