

1989 Assembly Bill 272

Date of enactment: **December 5, 1989**
Date of publication*: **December 18, 1989**

1989 WISCONSIN ACT 86

AN ACT *to renumber* 48.365 (1) and 48.365 (1); *to renumber and amend* 48.38 (5) (c) 6; *to amend* 48.355 (4) (a), 48.356 (1), 48.365 (2g) (b) (intro.), 48.365 (5), 48.415 (6) (a) 2, 48.42 (2m) and 808.075 (4) (a) 7; *to repeal and recreate* 48.355 (4) (a); and *to create* 48.362, 48.365 (1), 48.365 (2g) (b) 3, 48.38 (5) (c) 6. a to d, 48.38 (5) (f) and 48.415 (7) of the statutes; and *to affect* 1987 Wisconsin Act 383, section 25 (1) (b), **relating to:** the placement of children outside of their homes and termination of parental rights.

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

SECTION Id. 48.355 (4) (a) of the statutes is amended to read:

48.355 (4) (a) Except as provided under par. (b) or s. 48.362, all orders under this section shall terminate at the end of one year unless the judge specifies a shorter period of time. ~~Extensions~~ Except if s. 48.362 applies, extensions or revisions shall terminate at the end of one year unless the judge specifies a shorter period of time. No extension under s. 48.365 of an original dispositional order may be granted for a child whose legal custody has been transferred to the department under s. 48.34 (4m) if the child is 18 years of age or older when the original dispositional order terminates. Any order made before the child reaches the age of majority shall be effective for a time up to one year after its entry unless the judge specifies a shorter period of time.

SECTION Ih. 48.355 (4) (a) of the statutes, as affected by 1989 Wisconsin Acts 31 and (this act), is repealed and recreated to read:

48.355 (4) (a) Except as provided under par. (b) or s. 48.362, all orders under this section shall terminate at the end of one year unless the judge specifies a shorter period of time. Except if s. 48.362 applies, extensions or revisions shall terminate at the end of one year unless the judge specifies a shorter period of time. No extension under s. 48.365 of an original dispositional order may be

granted for a child whose legal custody has been transferred to the department of corrections under s. 48.34 (4m) if the child is 18 years of age or older when the original dispositional order terminates. Any order made before the child reaches the age of majority shall be effective for a time up to one year after its entry unless the judge specifies a shorter period of time.

SECTION Ip. 48.356 (1) of the statutes is amended to read:

48.356 (1) Whenever the judge orders a child to be placed outside his or her home because the child has been adjudged to be in need of protection or services under s. 48.345, 48.357, 48.363 or 48.365, the judge shall orally inform the parent or parents who appear in court of any grounds for termination of parental rights under s. 48.415 which may be applicable and of the conditions necessary for the child to be returned to the home ~~including any changes required in the parent's conduct, the nature of the home and the child's conduct.~~

SECTION It. 48.362 of the statutes is created to read:

48.362 Continuation of dispositional orders. If a petition for termination of parental rights is filed under s. 48.41 or 48.415 or an appeal from a judgment terminating or denying termination of parental rights is filed during the year in which a dispositional order under s. 48.355 or an extension order under s. 48.365 is in effect, the dispositional or extension order shall remain in effect until all proceedings related to the filing of the petition or an appeal are concluded.

1989 Assembly Bill 272

SECTION 2. 48.365 (1) of the statutes is renumbered 48.365 (1m).

SECTION 3. 48.365 (1) of the statutes, as affected by 1989 Wisconsin Act 31, is renumbered 48.365 (1m).

SECTION 4. 48.365 (1) of the statutes is created to read:

48.365 (1) In this section, "2 or more years" means a period of time that begins with the first placement of the child outside of his or her home pursuant to an order under this section or s. 48.345, 48.357 or 48.363 and includes any period of time in which the child returned home, unless the periods of time at home account for the majority of the time since the first placement.

SECTION 5. 48.365 (2g) (b) (intro.) of the statutes is amended to read:

48.365 (2g) (b) (intro.) If the child is placed outside of his or her home, the report shall include ~~both~~ all of the following:

SECTION 6. 48.365 (2g) (b) 3. of the statutes is created to read:

48.365 (2g) (b) 3. If the child has been placed outside of his or her home for 2 or more years, a statement of whether or not a recommendation has been made to terminate the parental rights of the parents of the child. If a recommendation for a termination of parental rights has been made, the statement shall indicate the date on which the recommendation was made, any previous progress made to accomplish the termination of parental rights, any barriers to the termination of parental rights, specific steps to overcome the barriers and when the steps will be completed, reasons why adoption would be in the best interest of the child and whether or not the child should be registered with the adoption information exchange. If a recommendation for termination of parental rights has not been made, the statement shall include an explanation of the reasons why a recommendation for termination of parental rights has not been made. If the lack of appropriate adoptive resources is the primary reason for not recommending a termination of parental rights, the agency shall recommend that the child be registered with the adoption information exchange or report the reason why registering the child is contrary to the best interest of the child.

SECTION 6m. 48.365 (5) of the statutes is amended to read:

48.365 (5) All Except as provided in s. 48.362, all orders shall be for a specified length of time not to exceed one year.

SECTION 7. 48.38 (5) (c) 6. of the statutes is renumbered 48.38 (5) (c) 6. (intro.) and amended to read:

48.38 (5) (c) 6. (intro.) If the child has been placed outside of his or her home for 2 years or more, the appropriateness of the permanency plan and the circumstances which prevent the child from ~~being returned to his or her home, being placed for adoption or being placed in sustaining care.~~

SECTION 8. 48.38 (5) (c) 6. a to d. of the statutes are created to read:

48.38 (5) (c) 6. a. Being returned to his or her home;

b. Having a petition for the involuntary termination of parental rights filed on behalf of the child;

c. Being placed for adoption; or

d. Being placed in sustaining care.

SECTION 9. 48.38 (5) (f) of the statutes is created to read:

48.38 (5) (f) If the summary prepared under par. (e) indicates that the review panel made recommendations that conflict with the court order or that provide for additional services not specified in the court order, the agency primarily responsible for providing services to the child shall request a revision of the court order.

SECTION 10. 48.415 (6) (a) 2. of the statutes is amended to read:

48.415 (6) (a) 2. That although paternity to the child has been adjudicated under s. 48.423, the father did not establish a substantial parental relationship with the child prior to the ~~adjudication of paternity~~ filing of a petition for termination of parental rights although the father had reason to believe that he was the father of the child and has ~~never~~ not assumed parental responsibility for the child.

SECTION 11. 48.415 (7) of the statutes is created to read:

48.415 (7) INCESTUOUS PARENTHOOD. Incestuous parenthood may be established by a showing that the person whose parental rights are sought to be terminated is also related, either by blood or adoption, to the child's other parent in a degree of kinship closer than 2nd cousin.

SECTION 12. 48.42 (2m) of the statutes is amended to read:

48.42 (2m) NOTICE NOT REQUIRED. Notice is not required to be given to a person who may be the father of a child conceived as a result of a sexual assault ~~or of incest~~ if a physician attests to his or her belief that a sexual assault ~~or incest~~ has occurred.

SECTION 12m. 808.075 (4) (a) 7. of the statutes is amended to read:

808.075 (4) (a) 7. Extension of dispositional order under s. 48.365, unless s. 48.362 applies.

SECTION 13. 1987 Wisconsin Act 383, section 25 (1) (b) is amended to read:

[1987 Wisconsin Act 383] Section 25 (1) (b) The treatment of sections 48.23 (1) (d) and (e), 48.355 (2c), 48.365 (2m) (a), 48.41 (2) (a) and (b), 48.415 (intro.), (4) (a) to (c), (6) (a) 2. and (b), 48.42 (4) (a), 48.43 (1) (intro.) and (6), 48.465, 48.81 and 48.91 (2) (a) and (b) of the statutes applies to dispositional orders, extension of dispositional orders and adoption and termination of parental rights petitions filed ~~or judgments granted~~ on or after the effective date of this paragraph.

SECTION 14. Initial applicability. (1) CIRCUIT COURT. (a) *Termination of parental rights procedures.*

1989 Assembly Bill 272

The treatment of section 48.356 (1) of the statutes first applies to warnings given by judges on the effective date of this paragraph.

SECTION 15. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 48.365 (1) (by SECTION 3) of the statutes and the repeal and recreation of section 48.355 (4) (a) of the statutes take effect on January 1, 1990, or on the day after publication, whichever is later.
