

 **03hr\_AC-CF\_ab073\_pt01**



(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...  
PUBLIC HEARING - COMMITTEE RECORDS**

**2003-04**

(session year)

**Assembly**

(Assembly, Senate or Joint)

**Committee on ... Children and Families (AC-CF)**

**COMMITTEE NOTICES ...**

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

**INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL**

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)  
(**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)  
(**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (May 2012)



Moved by Representative Krug, seconded by Representative Ladwig that **Assembly Substitute Amendment 0067/2** be recommended for introduction.

Ayes: (8) Representatives Kestell, Ladwig, Albers,  
Jeskewitz, Vukmir, Sinicki, Miller and Krug.  
Noes: (0) None.

INTRODUCTION OF ASSEMBLY SUBSTITUTE  
AMENDMENT 0067/2 RECOMMENDED, Ayes 8, Noes 0

Moved by Representative Krug, seconded by Representative Ladwig that **Assembly Substitute Amendment 0067/2** be recommended for adoption.


Ayes: (8) Representatives Kestell, Ladwig, Albers,  
Jeskewitz, Vukmir, Sinicki, Miller and Krug.  
Noes: (0) None.

ASSEMBLY SUBSTITUTE AMENDMENT 0067/2 ADOPTION  
RECOMMENDED, Ayes 8, Noes 0

Moved by Representative Krug, seconded by Representative Vukmir that **Assembly Bill 73** be recommended for passage as amended.

Ayes: (8) Representatives Kestell, Ladwig, Albers,  
Jeskewitz, Vukmir, Sinicki, Miller and Krug.  
Noes: (0) None.

PASSAGE AS AMENDED RECOMMENDED, Ayes 8, Noes 0

  
\_\_\_\_\_  
David Matzen  
Committee Clerk

Vote Record

Committee on Children and Families

Date: 5-28-03

Moved by: Krug

Seconded by: Vukmir

AB 73

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt 1

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage
- Adoption
- Confirmation
- Concurrence
- Indefinite Postponement
- Introduction
- Rejection
- Tabling
- Nonconcurrency

Committee Member

**Representative Steve Kestell**

Aye

No

Absent

Not Voting

**Representative Bonnie Ladwig**

**Representative Sheryl Albers**

**Representative Suzanne Jeskewitz**

**Representative Leah Vukmir**

**Representative Christine Sinicki**

**Representative Mark Miller**

**Representative Shirley Krug**

Totals:

8

0

\_\_\_\_\_

\_\_\_\_\_

Vote Record

Committee on Children and Families

Date: 5-28-03

Moved by: Krug Seconded by: Ladwig

AB 73 SB \_\_\_\_\_ Clearinghouse Rule \_\_\_\_\_  
AJR \_\_\_\_\_ SJR \_\_\_\_\_ Appointment \_\_\_\_\_  
AR \_\_\_\_\_ SR \_\_\_\_\_ Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_  
A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_  
A/S Sub Amdt 1  
A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_  
A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

- Be recommended for:  
 Passage  Adoption  Confirmation  Concurrence  Indefinite Postponement  
 Introduction  Rejection  Tabling  Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Steve Kestell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sheryl Albers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leah Vukmir	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Christine Sinicki	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Shirley Krug	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	_____	_____

Vote Record

Committee on Children and Families

Date: 5-28-03

Moved by: Krug

Seconded by: Ladwig

AB 73

SB \_\_\_\_\_

Clearinghouse Rule \_\_\_\_\_

AJR \_\_\_\_\_

SJR \_\_\_\_\_

Appointment \_\_\_\_\_

AR \_\_\_\_\_

SR \_\_\_\_\_

Other \_\_\_\_\_

A/S Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_

A/S Sub Amdt 1

A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

A/S Amdt \_\_\_\_\_ to A/S Amdt \_\_\_\_\_ to A/S Sub Amdt \_\_\_\_\_

Be recommended for:

- Passage
- Adoption
- Confirmation
- Concurrence
- Indefinite Postponement
- Introduction
- Rejection
- Tabling
- Nonconcurrence

Committee Member	Aye	No	Absent	Not Voting
Representative Steve Kestell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Bonnie Ladwig	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Sheryl Albers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Suzanne Jeskewitz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Leah Vukmir	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Christine Sinicki	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mark Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Shirley Krug	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>8</u>	<u>0</u>	_____	_____

# History of Assembly Bill 73

ASSEMBLY BILL 73

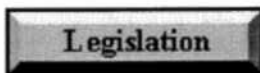
LC Amendment Memo

An Act to amend 48.21 (4) (intro.); and to create 48.21 (4m) and 48.417 (1) (bm) of the statutes; relating to: termination of parental rights and adoptive placement of a newborn child whose custody has been relinquished by his or her parent. (FE)

2003

- 02-18. A. Introduced by Representatives Ladwig, Jeskewitz, Ainsworth, Freese, Friske, Gielow, Gronemus, Gunderson, Hahn, Hines, Huebsch, Jensen, Kerkman, Krawczyk, F. Lasee, M. Lehman, McCormick, Montgomery, Musser, Olsen, Ott, Owens, Petrowski, Plouff, Seratti, Townsend, Vrakas and J. Wood; cosponsored by Senators Stepp, Cowles, Kanavas, Lazich, Roessler and Schultz.
- 02-18. A. Read first time and referred to committee on Children and Families ..... 67
- 03-26. A. Fiscal estimate received.
- 04-17. A. Public hearing held.
- 05-28. A. Executive action taken.
- 05-28. A. Assembly substitute amendment 1 offered by committee on Children and Families ..... 216
- 06-03. A. Report Assembly Substitute Amendment 1 adoption recommended by committee on Children and Families, Ayes 8, Noes 0 ..... 232
- 06-03. A. Report passage as amended recommended by committee on Children and Families, Ayes 8, Noes 0 ..... 232
- 06-03. A. Referred to committee on Rules ..... 232

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**Testimony on Assembly Bill 73 – Adoptive Placement of Abandoned Babies**  
**State Representative Bonnie Ladwig**  
**April 17, 2003**  
**Assembly Children and Families Committee**

Dear Chairman Kestell and members of the Assembly Children and Families Committee:

Thank you for holding a hearing on Assembly Bill 73 relating to adoptive placement of abandoned babies.

In recent years states nationwide have begun to pass “safe harbor” laws to give desperate parents a safe alternative to abandoning their child. These laws allow a parent to anonymously give their child to a hospital, police officer or emergency medical technician within 72 hours of birth with no strings attached. The child is then handed over to proper authorities that seek to place the child in a good home.

With the help of this committee and the leadership of Representative Jeskewitz and Representative Plale, Wisconsin passed its “safe harbor” law last session, which became 2001 Wisconsin Act 2.

While the “safe harbor” law works to place these abandoned children in permanent loving homes, it can take months for that to happen. The abandoned children are placed in foster care until the legal proceedings are complete and then they are adopted. In most cases these adoptive families have already been approved and are on waiting lists for a new baby when an abandoned child becomes available. If they decide to adopt an abandoned baby, they lose precious bonding time with the child while the legal bureaucracy shuffles its paperwork. Studies show that the first six months of a child’s life are key bonding time.

To address this issue, I have introduced Assembly Bill 73, which would allow an abandoned child to go directly into the care of their prospective adoptive family instead of foster care. Under the bill the proposed adoptive parent would sign a statement acknowledging that there is no guarantee that the adoption will be finalized.

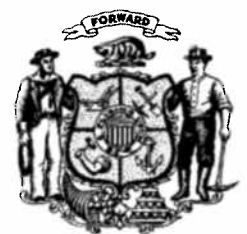
I feel this legislation would streamline the process by having an abandoned child being in one home instead of potentially many before settling into a permanent home. It would also be beneficial to the well being of the child and its adoptive parents by being together as soon as possible to develop that special parent/child bond. Many of these adoptive families have waited a long time for a child. There is no reason they should wait any longer when in all likelihood the adoption will be final.

Michigan included this provision in their original safe harbor law and the process is doing well.

Thank you for your time and attention. I would be happy to answer any questions.



# WISCONSIN STATE LEGISLATURE



**TESTIMONY ON AB 73**  
**APRIL 17, 2003**  
**MARK MITCHELL**  
**DIVISION OF CHILDREN AND FAMILY SERVICES**

- This bill follows-up 2001 Wisconsin Act 2 regarding relinquishment of a newborn
- The Department has just completed the public comment period on Ch. HFS 39, the administrative rule the Department was mandated to promulgate in 2001 Wi Act 2
- The intention of this bill is to facilitate the adoption of infants whose custody was relinquished pursuant to s. 48.195, the statute created by 2001 Wi Act 2
- This bill would do all of the following:
  - Require the court to transfer guardianship and legal custody of the child to
    - The Department
    - A county department
    - A child welfare agency
  - Require the court to order the above agency to place the child for adoption in a foster or treatment foster home
  - Require the proposed adoptive parent to sign a statement acknowledging that there is no guarantee the adoption will be finalized
  - Requires agency to file a TPR petition no earlier than 30 days after the relinquishment but no longer than 60 days after the date the court found that the child was relinquished
- In concept, the Department is supportive of this bill. However, we are recommending some minor procedural changes:
  - Under the bill, the court would transfer guardianship and legal custody to one of the three agencies at the temporary physical custody hearing.
  - Traditionally, the Department is not involved until there has been a TPR and then only in cases of special needs children. Under current law and structure, counties are responsible for prosecuting TPR cases and have the expertise for that. It is also unclear whether this action would be taken by attorneys for the Department or by attorneys for the Department of Justice. In addition:
    - At least one of the parents is likely to live in the county that took custody of the relinquished infant

- It would be an inefficient use of government resources to have a state attorney file the TPR petition in the few cases of this nature
  - The county attorney has efficient access to the local court
  - The county attorney has a working relationship with the local judge
  - County attorneys already have the expertise in these cases; it is not practical for the state to develop this expertise for the few number of cases; in the alternative, we would have to contract with a private attorney who has such expertise
  
- We recommend that the language in proposed s. 48.417(1)(bm) be changed to reflect the current language in s. 48.417(1)(intro.) indicating that this is the responsibility of the person identified under s. 48.09 as representing the interests of the public.
  
- Under the bill, a TPR petition must be filed not earlier than 30 days after the relinquishment but no longer than 60 days after the court determines that the child was relinquished.
  - It is not clear in the bill whether this judicial determination is to occur at the temporary physical custody hearing under s. 48.21 or a subsequent fact-finding hearing under s. 48.21. The time period between the two hearings can be only a few days or, potentially, weeks or months.
  - Under current law, there are good cause exceptions to filing the TPR petition (e.g., the child is being cared for by a relative or the county determines and documents that a TPR would not be in the child's best interest). Those good cause exceptions are not included in this bill. It is not clear whether not including those exceptions was intentional or was merely an oversight.
  - We recommend that the bill be amended to specify when this judicial determination is to be made and whether the good cause exceptions would also apply in this case.
  
- Under the bill, the juvenile court is to transfer guardianship and legal custody to an agency if the child continues to be held in custody.
  - The juvenile court's jurisdictional authority is provided under s. 48.14. These cases are not currently listed in s. 48.14.
  - We recommend that s. 48.14 be amended to specifically state that the court has exclusive jurisdiction to transfer guardianship and legal custody of relinquished infants who are continued in custody



## MEMORANDUM

**To:** Members of the Assembly Committee on Children and Families  
**From:** Atty. Joan Korb, Legislative Chair  
Children and the Law Section, State Bar of Wisconsin  
**Date:** April 17, 2003  
**Re:** Assembly Bill 73

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While every member of the Board of the Children and the Law Section of the State Bar of Wisconsin wants to see that all newborns, infants and children receive a safe and permanent home as soon as possible, the Board unanimously voted to strongly oppose *Assembly Bill 73* because it perpetuates and does nothing to eliminate the serious flaws within Section 48.195 Wis. Stats., the original "*Moses Bill*" or "Safe Place for Newborns." Without a mechanism for a newborn's parent(s) to regain custody of a relinquished child, the Children and the Law Section cannot support legislation that expedites the permanent loss of the child to his/her parents.

Further, the original "Safe Place for Newborns" statute did nothing to address situations where there may be another interested parent who wants the child. This could be a situation where a marital child is relinquished. A mother or father could bring a newborn to Wisconsin from another state and relinquish the child in this state without the knowledge of the other parent.

A teenaged girl could relinquish the child because of shame or fear her parents would be angry or upset if they knew of the pregnancy and birth. Under Section 48.23(2) of Wis. Stats., a juvenile facing an involuntary termination of his/her parental rights or the voluntarily termination of his/her rights **must** be represented by counsel.

It is easy to imagine a situation where a teenaged girl hides a pregnancy, gives birth and relinquishes a child without anyone knowing. It is also easy to imagine her parents finding out and faced with the knowledge of a grandchild, wanting to take responsibility for the relinquished child. How would they regain custody of the child? There is no mechanism to assist them.

No one disputes the good intentions of the "Safe Place for Newborns" statute, however, it was flawed in the beginning and merely giving notice via a signed acknowledgment to proposed adoptive parents that there is no guarantee that the adoption will be finalized does nothing to protect juvenile parents, an interested "other" parent or a newborn who could lose a fit and responsible parent who was confused, distraught or without apparent resources at the time the newborn was relinquished.

Many members of the Children and Law Section Board are concerned that this legislation is another step toward the "quick and easy" termination and adoption of children espoused in the Birth Parent Registry legislation that has been proposed and which the Children and the Law Section Board also strongly opposes.

The Children and the Law Section Board of the State Bar, made up of prosecutors, guardians ad litem, and defense attorneys, urges committee members to oppose Assembly Bill 73 because it perpetuates and exacerbates the flaws of an unfair statute that could have devastating consequences.





State Senator

*Cathy Stepp*

Date??

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WISCONSIN'S 21ST DISTRICT

Statement by Senator Cathy Stepp on Assembly Bill 73 (LRB 0355/1)

I am pleased to join my colleague, Representative Bonnie Ladwig, as the lead Senate sponsor of Assembly Bill 73.

Assembly Bill 73 enhances Wisconsin's "Safe Harbor" law (2001 Wisconsin Act 2). Wisconsin is home to many loving families willing to adopt these abandoned babies as their own. Assembly Bill 73 streamlines the adoptive process so that these abandoned infants can be directly placed with their prospective adoptive family while the adoption is being finalized.

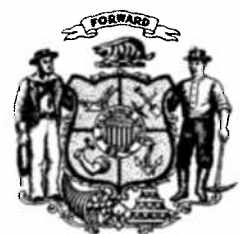
It is an established fact that the first several months of a child's life are crucial to his or her development. Assembly Bill 73 will help smooth the transition from abandonment to long term stability and permanency for these babies.

I would like to thank Representative Kestell and the rest of the Assembly Committee on Children and Families for holding a hearing on this important piece of legislation. I urge members of the committee to vote in favor of Assembly Bill 73.





# WISCONSIN STATE LEGISLATURE





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## WISCONSIN LEGISLATIVE COUNCIL

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*Terry C. Anderson, Director  
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE STEVE KESTELL AND MEMBERS OF THE ASSEMBLY  
COMMITTEE ON CHILDREN AND FAMILIES

FROM: Anne Sappenfield, Senior Staff Attorney

RE: Assembly Substitute Amendment \_\_ (LRBs0067/2) to 2003 Assembly Bill 73, Relating to  
Termination of Parental Rights and Adoptive Placement of a Newborn Child Whose Custody  
Has Been Relinquished by His or Her Parent

DATE: May 27, 2003

This memorandum describes Assembly Substitute Amendment \_\_ (LRBs0067/2) to 2003 Assembly Bill 73, relating to termination of parental rights (TPR) and adoptive placement of a newborn child whose custody has been relinquished by his or her parent. Assembly Bill 73 was introduced by Representative Ladwig; cosponsored by Senator Stepp on February 18, 2003. The Assembly Committee on Children and Families held a public hearing on the bill on April 17, 2003, and is scheduled to take executive action on the bill on May 28, 2003.

Under current law, a parent of a child who is under 72 hours of age (newborn child) may confidentially relinquish custody of the newborn child to certain health care providers or law enforcement. The bill provides that the juvenile court must transfer guardianship and legal custody of such a child to the Department of Health and Family Services (DHFS) or to a child welfare agency or county department of human or social services that is authorized to accept guardianship of children and to place children for adoption. The court must also order the agency with guardianship to place the newborn child for adoption in a licensed foster home under the bill. A petition to terminate the parental rights of the child's parents must then be filed no earlier than 30 days after the date on which the child was relinquished and no later than 60 days after the date on which the juvenile court found the child was relinquished.

### JURISDICTION

The substitute amendment modifies the bill to specify that the juvenile court has jurisdiction over the appointment and removal of a guardian for a child found to be in protection or services because custody of the child has been relinquished.

**VENUE**

The substitute amendment provides that venue for juvenile court proceedings relating to the relinquishment of a newborn child is the county in which the relinquishment occurred. Under current law, the venue is the county where the child resides or is present.

**FINDING THAT NEWBORN CHILD RELINQUISHED**

Under the bill, the juvenile court must transfer the guardianship and custody of a child whose custody has been relinquished to DHFS, a licensed child welfare agency, or a county department at the initial custody hearing for the child.

The substitute amendment requires the court to include in the guardianship and custody order finding that there is probable cause to believe that a parent of the child has relinquished custody of the child.

**FILING OF TPR PETITION**

Under the bill, if a court has found that a parent of a child relinquished custody of the child, an agency (i.e., DHFS, a county department, or a licensed child welfare agency) or the district attorney (DA), corporation counsel, or other appropriate official designated by the county board of supervisors to represent the interests of the public must file a petition to terminate the child's parents' parental rights or join in a TPR petition that has already been filed. The petition must be filed or joined no earlier than 30 days after the date on which the child was relinquished and no later than 60 days after the date on which the juvenile court found the child was relinquished.

The substitute amendment provides that the DA, corporation counsel, or other appropriate official, not an agency, must file or join the TPR petition. In addition, the petition must be filed no later than 60 days after the date on which the juvenile court found probable cause to believe that the child was relinquished, as described above.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AS:wu:jal;ksm



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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2003 Assembly Bill 73**

**Assembly Substitute  
Amendment 1**

*Memo published: May 28, 2003*

*Contact: Anne Sappenfield, Senior Staff Attorney (266-9485)*

Under current law, a parent of a child who is under 72 hours of age (newborn child) may confidentially relinquish custody of the newborn child to certain health care providers or law enforcement.

Assembly Bill 73 provides that the juvenile court must transfer guardianship and legal custody of such a child to the Department of Health and Family Services (DHFS) or to a child welfare agency or county department of human or social services that is authorized to accept guardianship of children and to place children for adoption at the child's initial custody hearing. The court must also order the agency with guardianship to place the newborn child for adoption in a licensed foster home under the bill.

If a court has found that a parent of a child relinquished custody of the child, an agency (i.e., DHFS, a county department, or a licensed child welfare agency) or the district attorney (DA), corporation counsel, or other appropriate official designated by the county board of supervisors to represent the interests of the public must file a petition to terminate the child's parents' parental rights or join in a TPR petition that has already been filed. The petition must be filed or joined no earlier than 30 days after the date on which the child was relinquished and no later than 60 days after the date on which the juvenile court found the child was relinquished.

The substitute amendment does the following:

- a. Specifies that the juvenile court has jurisdiction over the appointment and removal of a guardian for a child found to be in protection or services because custody of the child has been relinquished.
- b. Provides that venue for juvenile court proceedings relating to the relinquishment of a newborn child is the county in which the relinquishment occurred. (Under current law, the venue is the county where the child resides or is present.)

- c. Requires the court to include in the guardianship and custody order, described above, a finding that there is probable cause to believe that a parent of the child has relinquished custody of the child.
- d. Provides that the DA, corporation counsel, or other appropriate official, not an agency, must file or join the TPR petition. In addition, the petition must be filed no later than 60 days after the date on which the juvenile court found probable cause to believe that the child was relinquished, as described above.

The Assembly Committee on Children and Families introduced and voted unanimously to recommend adoption of Assembly Substitute Amendment 1 on May 28, 2003. The committee also voted unanimously to recommend passage of the bill as amended.

AS:ksm