

**2007 DRAFTING REQUEST**

**Bill**

Received: 02/01/2007

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Sheryl Albers (608) 266-8531

By/Representing: Don Dyke

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Dom. Rel. - cust./plac./vis.

Extra Copies:

Submit via email: YES

Requester's email: Rep.Albers@legis.wisconsin.gov

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Custody of pets in a divorce

---

**Instructions:**

See Attached

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 03/05/2007	jdyer 03/08/2007		_____			
/P1			jfrantze 03/08/2007	_____	sbasford 03/08/2007		
/P2	pkahler 03/15/2007	jdyer 03/16/2007	pgreensl 03/16/2007	_____	cduerst 03/16/2007		
/1	pkahler	jdyer	rschluet	_____	sbasford	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/23/2007	03/26/2007	03/26/2007	_____	03/26/2007	05/07/2007	

FE Sent For: N/A

<END>

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	03/23/2007	03/26/2007	03/26/2007	_____	03/26/2007		

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Instructions:

See Attached

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/P1		1 3/26 jld	jfrantze 03/08/2007	_____	sbasford 03/08/2007		
/P2	pkahler 03/15/2007	jdyer 03/16/2007	pgreensl 03/16/2007	_____	cduerst 03/16/2007		

Handwritten signature and date 3/26/07

FE Sent For:

**<END>**

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By/Representing: **Don Dyke**

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May Contact:

Addl. Drafters:

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Custody of pets in a divorce

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**Instructions:**

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/?	pkahler 03/05/2007	jdye 03/08/2007	3/16	3/16			
/P1	P2 3/16 jld		jfrantze 03/08/2007	3/16 P8/P9	sbasford 03/08/2007		

FE Sent For:

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/?	pkahler	1/1 3/8 JLW	JLW 3/8	JLW 3/8	JLW 3/8		

FE Sent For:

<END>

767.49

change title of sub

Post-It routing request pad 7664

### ROUTING - REQUEST

WISC

Please

- READ
- HANDLE
- APPROVE
- and
- FORWARD
- RETURN
- KEEP OR DISCARD
- REVIEW WITH ME

To Pam Kahler  
Pam - Attached  
is outline of  
drafting request  
from Rep. Albers  
Thanks

erson, Director  
Deputy Director

TO: REPRESENTATIVE  
 FROM: Don Dyke, Senior St  
 RE: Your Drafting Request Regarding Placement of Pets  
 DATE: January 26, 2007

Date \_\_\_\_\_

From Don Dyke

This memorandum outlines your proposal on placement of pets in divorce proceedings which you intend to submit to the Legislative Reference Bureau for a preliminary draft. Your proposal includes the following provisions:

- In a divorce, legal separation, or annulment proceeding, prohibit a court from ordering split placement of a pet unless the parties enter into a written stipulation regarding placement, which is filed with the court. Apply the prohibition both during the pendency of the action and post judgment. Permit the parties to amend a stipulation (amendment must be in writing).
- If the parties are unable to stipulate regarding placement of a pet before judgment, the parties then must surrender the pet to a humane society or other similar reputable animal care facility and submit evidence to the court that they have done so.
- Prohibit a court, or the parties by stipulation, from placing a pet with a party who has been the subject of a domestic abuse TRO or injunction.
- If split placement of a pet is stipulated, and one of the parties later moves to another municipality, require the parties to revise the placement stipulation to reflect the change in residence. If the parties are unable to enter into such a stipulation, require the pet be surrendered to a humane society or other similar reputable animal care facility and require the parties to submit evidence to the court of that placement.

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

DD:wu:tlu



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1812/2

PJK: a:...

Jld

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Draft  
(in 3-5)

gen cut

1 AN ACT ...; relating to: placement of pets in a divorce. ✓

*Analysis by the Legislative Reference Bureau*

Current law does not address the placement of pets in actions affecting the family. This bill provides that in an annulment, divorce, or legal separation action, a party may file a motion to have the court determine the placement of a pet. ✓ The bill requires a court to order placement of a pet in conformity with any written stipulation that the parties file ✓ and prohibits the court from ordering shared placement if the parties do not stipulate to it. If the parties are unable to stipulate to the placement of a pet, the court must order the parties to surrender the pet to a local humane society and to provide evidence that it has been done. If the court has ordered shared placement of a pet and one of the parties moves to a location that would make it impractical to continue the shared placement, the court must modify the placement arrangement in conformity with a stipulation of the parties. If the parties are unable to stipulate, the court must order the parties to surrender the pet to a local humane society and to provide evidence that it has been done. ✓ The bill prohibits a court from ordering placement of a pet with a party who has been subject to a domestic abuse temporary restraining order or injunction. The requirements also apply for temporary orders during the pendency of the action.

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

2 SECTION 1. 767.225 ✓ (1) (m) of the statutes is created to read:

1 767.225 (1) (m) Upon the request of a party, granting placement of a pet of the  
2 parties in a manner consistent with s. 767.49.

3 SECTION 2. Subchapter V (title) of chapter 767 [precedes 767.401] of the  
4 statutes is amended to read:

5 CHAPTER 767

6 SUBCHAPTER V

7 CHILD CUSTODY, CUSTODY, PLACEMENT, AND VISITATION

8 SECTION 3. 767.49 of the statutes is created to read:

9 767.49 Placement of pets. (1) MOTION AND STIPULATION FOR PLACEMENT. In  
10 an annulment, divorce, or legal separation action, a party may file a motion for a  
11 determination of the placement of a pet of the parties. The court may not order that  
12 the parties share placement of a pet unless the parties have filed a written  
13 stipulation with the court that provides for shared placement. Except as provided  
14 in sub. (4) (a), the court shall order placement of the pet in conformity with any  
15 written stipulation of the parties.

16 (2) SURRENDER OF PET IF NO STIPULATION. If a party to an annulment, divorce,  
17 or legal separation action requests the court to determine placement of a pet of the  
18 parties and the parties are unable to stipulate as to the pet's placement, the court  
19 shall order that the pet be surrendered to a local humane society or other similar  
20 animal care facility designated by the court and shall require that the parties submit  
21 evidence to the court that the pet has been so surrendered.

22 (3) IF A PARTY MOVES. If the court has ordered shared placement of a pet under  
23 sub. (1) and one of the parties moves, or intends to move, to a location that would  
24 make it impractical for the current placement arrangement to continue, a party may  
25 file a motion for modification of the placement order. Except as provided in sub. (4)

1 (a), the court shall modify the placement order in conformity with any written  
2 stipulation of the parties. If the parties are unable to stipulate to a modified  
3 placement arrangement, the court shall order that the pet be surrendered to a local  
4 humane society or other similar animal care facility designated by the court and  
5 shall require that the parties submit evidence to the court that the pet has been so  
6 surrendered.

7 (4) GENERAL PROVISIONS. (a) The court may not order placement of a pet of the  
8 parties with a party who has been subject to a temporary restraining order or  
9 injunction under s. 813.12 or 813.122.

10 (b) A stipulation under this section may be amended by the parties in writing.

11 **SECTION 4. Initial applicability.**

12 (1) This act first applies to annulment, divorce, or legal separation actions that  
13 are commenced on the effective date of this subsection.

14 (END)

D-note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1812/2dn  
PJK: a:...

AP  
Jld

date

It is unclear to me whether the court may order placement of a pet with only one of the parties without a stipulation. It would seem that, if the court must order the pet to be surrendered if the parties are unable to stipulate to placement, the court may not order placement with only one of the parties without a stipulation to that effect, either. However, if that is the case, a party who does not really want the pet could file a motion for placement to force the other party to stipulate to shared placement to avoid losing the pet to the humane society. On the other hand, there is no prohibition against either party adopting the pet from the humane society after it is surrendered. One would hope in that case that the party who really wants the pet gets there first. ✓

Please advise on whether you want the court to be able to order placement of a pet with only one of the parties if the parties do not stipulate to it. ✓

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1812/P1dn  
PJK:jld:jf

March 8, 2007

It is unclear to me whether the court may order placement of a pet with only one of the parties without a stipulation. It would seem that, if the court must order the pet to be surrendered if the parties are unable to stipulate to placement, the court may not order placement with only one of the parties without a stipulation to that effect, either. However, if that is the case, a party who does not really want the pet could file a motion for placement to force the other party to stipulate to shared placement to avoid losing the pet to the humane society. On the other hand, there is no prohibition against either party adopting the pet from the humane society after it is surrendered. One would hope in that case that the party who really wants the pet gets there first.

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Senior Legislative Attorney  
Phone: (608) 266-2682  
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**Kahler, Pam**

---

**From:** Griffiths, Terri  
**Sent:** Thursday, March 15, 2007 2:17 PM  
**To:** Kahler, Pam  
**Subject:** Draft Change

Pam,

Here is an answer to your drafter's not on LRB 1812

You asked whether the court should be able to order placement of a pet with only one of the parties if the parties do not stipulate to it. Rep. Albers said this should be an item listed on the initial pleading or filing for divorce. But she said yes, the court could decide otherwise.

*Terri S. Griffiths  
Office of Rep. Sheryl Albers  
266-8531  
877-947-0050*

① add pets to petition

(+ whether any agreement)

② yes - it can order placement  
w/ one party w/o a stipulation



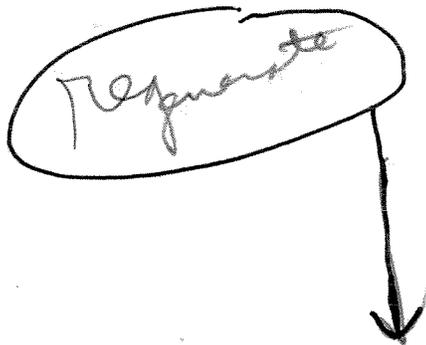
State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1812/P1  
PJK:jld:jf

P2  
v m is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

A-note  
(w 3-15)



- 1 AN ACT *to amend* subchapter V (title) of chapter 767 [precedes 767.401]; and *to*
- 2 *create* 767.225 (1) (m) and 767.49 of the statutes; **relating to:** placement of
- 3 ✓ pets in a divorce.

**Analysis by the Legislative Reference Bureau**

Current law does not address the placement of pets in actions affecting the family. This bill provides that, in an annulment, divorce, or legal separation action, a party may file a motion to have the court determine the placement of a pet. The bill requires a court to order placement of a pet in conformity with any written stipulation that the parties file and prohibits the court from ordering shared placement if the parties do not stipulate to it. If the parties are unable to stipulate to the placement of a pet, the court ~~must~~ order the parties to surrender the pet to a local humane society and to provide evidence that it has been done. If the court has ordered shared placement of a pet and one of the parties moves to a location that would make it impractical to continue the shared placement, the court must modify the placement arrangement in conformity with a stipulation of the parties. If the parties are unable to stipulate, the court ~~must~~ order the parties to surrender the pet to a local humane society and to provide evidence that it has been done. The bill prohibits a court from ordering placement of a pet with a party who has been subject

may order placement with one of the parties or may

have entered into a written agreement as to placement. In the action,

the petition filed in the action must include information about pets of the parties and whether they

to a domestic abuse temporary restraining order or injunction. The requirements also apply for temporary orders during the pendency of the action.

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

SECTION 1. 767.225 (1) (m) of the statutes is created to read:

767.225 (1) (m) Upon the request of a party, granting placement of a pet of the parties in a manner consistent with s. 767.49.

SECTION 2. Subchapter V (title) of chapter 767 [precedes 767.401] of the statutes is amended to read:

**CHAPTER 767**

**SUBCHAPTER V**

**CHILD CUSTODY, PLACEMENT, AND**

**VISITATION**

SECTION 3. 767.49 of the statutes is created to read:

**767.49 Placement of pets. (1) MOTION AND STIPULATION FOR PLACEMENT.** In an annulment, divorce, or legal separation action, a party may file a motion for a determination of the placement of a pet of the parties. The court may not order that the parties share placement of a pet unless the parties have filed a written stipulation with the court that provides for shared placement. Except as provided in sub. (4) (a), the court shall order placement of the pet in conformity with any written stipulation of the parties.

**(2) SURRENDER OF PET IF NO STIPULATION.** If a party to an annulment, divorce, or legal separation action requests the court to determine placement of a pet of the parties and the parties are unable to stipulate as to the pet's placement, the court shall order that the pet be surrendered to a local humane society or other similar

Insert 2-1

CS  
PLACEMENT ✓

Insert 2-21 ✓

or sub. (4)(a) applies ✓

Insert 3-1 ✓

✓ or sub. (4)(a) applies

Insert 3-1 ✓

1 animal care facility designated by the court and shall require that the parties submit  
2 evidence to the court that the pet has been so surrendered.

3 (3) IF A PARTY MOVES. If the court has ordered shared placement of a pet under  
4 sub. (1) and one of the parties moves, or intends to move, to a location that would  
5 make it impractical for the current placement arrangement to continue, a party may  
6 file a motion for modification of the placement order. Except as provided in sub. (4)  
7 (a), the court shall modify the placement order in conformity with any written  
8 stipulation of the parties. If the parties are unable to stipulate to a modified  
9 placement arrangement, the court shall order that the pet be surrendered to a local  
10 humane society or other similar animal care facility designated by the court and  
11 shall require that the parties submit evidence to the court that the pet has been so  
12 surrendered.

13 (4) GENERAL PROVISIONS. (a) The court may not order placement of a pet of the  
14 parties with a party who has been subject to a temporary restraining order or  
15 injunction under s. 813.12 or 813.122.

16 (b) A stipulation under this section may be amended by the parties in writing.

17 **SECTION 4. Initial applicability.**

18 (1) This act first applies to annulment, divorce, or legal separation actions that  
19 are commenced on the effective date of this subsection.

20 (END)

D-note

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1812/P2ins  
PJK:jld:jf

INSERT 2-1

1 SECTION 1. 767.215 (2) (bm) <sup>X</sup> of the statutes is created to read:

2 767.215 (2) (bm) The species of each pet of the parties and when each pet was  
3 acquired. ✓

4 SECTION 2. 767.215 (2) (em) <sup>X</sup> of the statutes is created to read:

5 767.215 (2) (em) Whether the parties have entered into a written agreement  
6 as to placement of any pets of the parties. If so, the written agreement shall be  
7 attached. ✓

(END OF INSERT 2-1)

INSERT 2-21

8 <sup>wof</sup> may order placement with one of the parties or may <sup>(NO A)</sup>

(END OF INSERT 2-21)

INSERT 3-1

9 <sup>wof</sup> . If the court orders that the pet be surrendered, the court <sup>(NO A)</sup>

(END OF INSERT 3-1)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

date

LRB-1812/P2dn

PJK:.....

Jld

ing

This redraft adds information about pets to the petition. I have retained the ability of the parties to file a motion for the court to determine placement of a pet, however, so that the court will not have to decide pet placement in every action in which the parties have a pet.

\* In this draft, if the parties are unable to stipulate to placement, the court may order placement with one of the parties or order the surrender of the pet. Would you like to include other options, such as order placement of the pet with a family member of either of the parties or with a third party who wants the pet?

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Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1812/P2dn  
PJK:jld:pg

March 16, 2007

This redraft adds information about pets to the petition. I have retained the ability of the parties to file a motion for the court to determine placement of a pet, however, so that the court will not have to decide pet placement in every action in which the parties have a pet.

In this draft, if the parties are unable to stipulate to placement, the court may order placement with one of the parties or order the surrender of the pet. Would you like to include other options, such as ordering placement of the pet with a family member of either of the parties or with a third party who wants the pet?

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**Kahler, Pam**

---

**From:** Griffiths, Terri  
**Sent:** Friday, March 23, 2007 1:47 PM  
**To:** Kahler, Pam  
**Subject:** FW: Draft review: LRB 07-1812/P2 Topic: Custody of pets in a divorce  
**Attachments:** LRB-1812\_P2; LRB-1812\_P2 Drafters\_Note

Pam,

Rep. Albers wants to leave the draft as is. Would you prepare it as a regular draft please.  
Thanks, Terri

---

**From:** Duerst, Christina  
**Sent:** Friday, March 16, 2007 12:03 PM  
**To:** Rep.Albers  
**Subject:** Draft review: LRB 07-1812/P2 Topic: Custody of pets in a divorce

**Following is the PDF version of draft LRB 07-1812/P2 and drafter's note.**



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1812/22

PJK:jld:pg

*vm is run*

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*no changes -  
just change  
John #  
(in 3-23)*

*Regen*

1 AN ACT *to amend* subchapter V (title) of chapter 767 [precedes 767.401]; and *to*  
2 *create* 767.215 (2) (bm), 767.215 (2) (em), 767.225 (1) (m) and 767.49 of the  
3 statutes; **relating to:** placement of pets in a divorce.

***Analysis by the Legislative Reference Bureau***

Current law does not address the placement of pets in actions affecting the family. This bill provides that, in an annulment, divorce, or legal separation action, the petition filed in the action must include information about pets of the parties and whether they have entered into a written agreement as to placement. In the action, a party may file a motion to have the court determine the placement of a pet. The bill requires a court to order placement of a pet in conformity with any written stipulation that the parties file and prohibits the court from ordering shared placement if the parties do not stipulate to it. If the parties are unable to stipulate to the placement of a pet, the court may order placement with one of the parties or may order the parties to surrender the pet to a local humane society and to provide evidence that it has been done. If the court has ordered shared placement of a pet and one of the parties moves to a location that would make it impractical to continue the shared placement, the court modify the placement arrangement in conformity with a stipulation of the parties. If the parties are unable to stipulate, the court may order placement with one of the parties or may order the parties to surrender the pet to a local humane society and to provide evidence that it has been done. The bill prohibits a court from ordering placement of a pet with a party who has been subject



1 stipulation with the court that provides for shared placement. Except as provided  
2 in sub. (4) (a), the court shall order placement of the pet in conformity with any  
3 written stipulation of the parties.

4 (2) PLACEMENT OF PET IF NO STIPULATION. If a party to an annulment, divorce,  
5 or legal separation action requests the court to determine placement of a pet of the  
6 parties and the parties are unable to stipulate as to the pet's placement or sub. (4)  
7 (a) applies, the court may order placement with one of the parties or may order that  
8 the pet be surrendered to a local humane society or other similar animal care facility  
9 designated by the court. If the court orders that the pet be surrendered, the court  
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11 surrendered.

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16 (a), the court shall modify the placement order in conformity with any written  
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18 placement arrangement or sub. (4) (a) applies, the court may order placement with  
19 one of the parties or may order that the pet be surrendered to a local humane society  
20 or other similar animal care facility designated by the court. If the court orders that  
21 the pet be surrendered, the court shall require that the parties submit evidence to  
22 the court that the pet has been so surrendered.

23 (4) GENERAL PROVISIONS. (a) The court may not order placement of a pet of the  
24 parties with a party who has been subject to a temporary restraining order or  
25 injunction under s. 813.12 or 813.122.

1 (b) A stipulation under this section may be amended by the parties in writing.

2 **SECTION 6. Initial applicability.**

3 (1) This act first applies to annulment, divorce, or legal separation actions that  
4 are commenced on the effective date of this subsection.

5 (END)

**Parisi, Lori**

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**From:** Griffiths, Terri  
**Sent:** Monday, May 07, 2007 11:31 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-1812/1 Topic: Custody of pets in a divorce

Please Jacket LRB 07-1812/1 for the ASSEMBLY.