

**2007 DRAFTING REQUEST**

**Bill**

Received: **01/31/2007**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - child welfare**

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:**

Child in need of protection or services ground for child whose guardian refuse to file petition requesting those services

**Instructions:**

Create a CHIPS ground for a child in need of protection or services whose parent, guardian, or legal custodian fails, neglects, or refuses to file a petition requesting CHIPS jurisdiction over the child

**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>
/?	gmalaise 02/21/2007	wjackson 03/06/2007		_____			S&L
/1			pgreensl 03/06/2007	_____	lparisi 03/06/2007		S&L
/2	gmalaise 03/07/2007	wjackson 03/07/2007	nmatzke 03/08/2007	_____	cduerst 03/08/2007	lparisi 05/07/2007	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

*atit*  
*5/25/07*

<END>

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			nwn 3/8	nwn/jf 3/8			

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Child in need of protection or services ground for child whose ~~parents~~ <sup>guardian</sup> refuse to file petition requesting those services

---

**Instructions:**

Create a CHIPS ground for a child in need of protection or services whose ~~parent~~ <sup>guardian</sup> or legal ~~custodian~~ fails, neglects, or refuses to file a petition requesting CHIPS jurisdiction over the child

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**Drafting History:**

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/?	gmalaise	1 WJ 3/6					

FE Sent For:

<END>

1/30/08

Albers

Anne Seppelfield

Child formerly CHIPS - CHIPS order expired

Guardian refuses to file petition (so can TPR on continuing CHIPS)

= CR CHIPS ground like 48.13 (4) & (11)

Child is in need of services, but guardian ~~not guardian~~ ~~guardian~~

neglects, refuses, is unable to request jur.



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1747/9

GMM.....

WJ

5000

LPS: please  
print w/line  
numbers.

Gen

AN ACT ...; **relating to:** child in need of protection or services jurisdiction over a child who is in need of supervision, services, care, or rehabilitation, but whose guardian neglects, refuses, or is unable to sign a petition requesting that jurisdiction.

*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 alleged to be in need of protection or services which can be ordered by the juvenile court and who meets certain grounds, such as the child is suffering emotional damage for which the parent, guardian, or legal custodian is neglecting, refusing, or unable to obtain necessary treatment or is suffering from an alcohol or other drug abuse impairment for which the parent, guardian, or legal custodian is neglecting, refusing, or unable to provide treatment (CHIPS jurisdiction). Current law permits the district attorney, corporation counsel, or counsel or guardian ad litem for a parent, relative, guardian, or the child to file a petition alleging that a child is subject to CHIPS jurisdiction and requires such a petition to include a statement that the child is in need of supervision, services, care, or rehabilitation.

This bill grants to the juvenile court CHIPS jurisdiction over a child who is alleged to be in need of supervision, services, care, or rehabilitation, but whose guardian neglects, refuses, or is unable to sign the petition requesting that jurisdiction.

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:*

**SECTION 1.** 48.13 (11m) of the statutes is amended to read:

48.13 (11m) Who is suffering from an alcohol and other drug abuse impairment, exhibited to a severe degree, for which the parent, guardian or legal custodian is neglecting, refusing or unable to provide treatment <sup>or</sup> ~~or~~ <sup>plain</sup>

History: 1977 c. 29, 354; 1979 c. 298, 300, 334; 1985 a. 321; 1987 a. 285, 339, 403; 1993 a. 27, 363, 395, 474; 1995 a. 77, 275; 1997 a. 80; 2001 a. 2; 2005 a. 113.

**SECTION 2.** 48.13 (11r) of the statutes is created to read:

48.13 (11r) Who is in need of supervision, services, care, or rehabilitation, but whose guardian neglects, refuses, or is unable to sign the petition requesting jurisdiction under this subsection; or

**SECTION 3.** 48.977 (2) (a) of the statutes is amended to read:

48.977 (2) (a) That the child has been adjudged to be in need of protection or services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), ~~or~~ (11m), or (11r) or 938.13 (4) and been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or that the child has been so adjudged and placement of the child in the home of a guardian under this section has been recommended under s. 48.33 (1) or 938.33 (1).

History: 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109; 2005 a. 25, 130, 387.

**SECTION 4.** 48.977 (4) (b) 3. of the statutes is amended to read:

48.977 (4) (b) 3. The date on which the child was adjudged in need of protection or services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), ~~or~~ (11m), or (11r) or 938.13 (4) and the dates on which the child has been placed, or continued

in a placement, outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child has been so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1) in which placement of the child in the home of the person is recommended.

**History:** 1995 a. 275; 1997 a. 27, 35, 80, 237; 1999 a. 133; 2001 a. 2, 109; 2005 a. 25, 130, 387.

**SECTION 5. Initial applicability.**

(1) CHILD IN NEED OF PROTECTION OR SERVICES; FAILURE OF GUARDIAN TO SIGN PETITION. This act first applies to a child who meets the conditions specified in section 48.13 (11r) of the statutes, as created by this act, on the effective date of this subsection.

(END)

**Malaise, Gordon**

---

**From:** Sappenfield, Anne  
**Sent:** Wednesday, March 07, 2007 2:30 PM  
**To:** Malaise, Gordon

Hi Gordon!

For Rep. Albers' LRB-1747/1, please substitute lines 6-8 on p. 2 with "Whose guardian is unable or needs assistance to care for or provide necessary or special treatment for the child but is unwilling or unable to sign the petition requesting jurisdiction under this subsection." Let me know if you have questions or if this doesn't work. Thanks!

**Anne Sappenfield**  
**Senior Staff Attorney**  
**Legislative Council Staff**  
**(608) 267-9485**

## Malaise, Gordon

---

**From:** Sappenfield, Anne  
**Sent:** Wednesday, March 07, 2007 3:49 PM  
**To:** Malaise, Gordon  
**Subject:** RE: LRB 1747

That's my fault--I wasn't looking at everything closely enough. Please do track the sub. (4) language. Thank you!

Anne

---

**From:** Malaise, Gordon  
**Sent:** Wednesday, March 07, 2007 3:08 PM  
**To:** Sappenfield, Anne  
**Subject:** RE: LRB 1747

Anne:

The suggested language appears to track pretty closely s. 48.13 (4), except that s. 48.13 (4) refers to "necessary special treatment or care" and the suggested language refers to "necessary or special treatment."

"Special treatment or care" is defined in s. 48.02 (17m) to mean professional services which need to be provided to a child or his or her family to protect the well-being of the child, prevent placement of the child outside the home, or meet the special needs of the child, and s. 48.345 (6) sets forth a separate disposition for a child in need of special treatment or care.

Now, maybe it's Rep. Albers' intent not to be locked into that definition, but if so that begs the question what does "necessary or special treatment" mean? "Necessary" I get, i.e., the child needs the treatment, but what does "special treatment" mean unless it is defined? Moreover, "necessary or special" implies that the treatment may be either necessary or special, i.e., the guardian may be unable to provide special treatment, but that treatment is unnecessary.

Accordingly, I would recommend that Rep. Albers consider replacing "necessary or special treatment" with one of the following:

1. "Necessary special treatment or care" if her intent is to use the defined term.
2. "Necessary special treatment" so that the treatment is both special (whatever that means) *and* necessary. It seems extreme to permit a court to order special treatment that is not necessary.
3. "Necessary treatment" so as to avoid altogether having to define "special." The child may be in need of simple, ordinary treatment that is nothing special, but the important point is that the child is in need of treatment that the guardian is unable to provide.

Gordon

---

**From:** Sappenfield, Anne  
**Sent:** Wednesday, March 07, 2007 2:30 PM  
**To:** Malaise, Gordon  
**Subject:**

Hi Gordon!

For Rep. Albers' LRB-1747/1, please substitute lines 6-8 on p. 2 with "Whose guardian is unable or needs assistance to care for or provide necessary or special treatment for the child but is unwilling or unable to sign the petition requesting jurisdiction under this subsection." Let me know if you have questions or if this doesn't work. Thanks!

**Anne Sappenfield**  
**Senior Staff Attorney**  
**Legislative Council Staff**  
**(608) 267-9485**



↑  
stays

2  
RMR

See

# 2007 BILL

whose guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child, but is unwilling or

child's parent or guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child and signs a petition requesting the juvenile court to exercise jurisdiction over the child

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2  
3  
4  
5

**AN ACT to amend** 48.13 (11m), 48.977 (2) (a) and 48.977 (4) (b) 3.; and **to create** 48.13 (11r) of the statutes; **relating to:** child in need of protection or services, jurisdiction over a child who is in need of supervision, services, care, or rehabilitation, but whose guardian neglects, refuses, or is unable to sign a petition requesting that jurisdiction.

Regulate

definition of special treatment or care... professional services that need to be provided to a child or his or her family to protect the well-being of the child prevent the placement of the child outside the home for meet the special needs of the child currently

### 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 alleged to be in need of protection or services which can be ordered by the juvenile court, and who meets certain grounds, such as the child is suffering emotional damage for which the parent, guardian, or legal custodian is neglecting, refusing, or unable to obtain necessary treatment or is suffering from an alcohol or other drug abuse impairment for which the parent, guardian, or legal custodian is neglecting, refusing, or unable to provide treatment (CHIPS jurisdiction). Current law permits the district attorney, corporation counsel, or counsel or guardian ad litem for a parent, relative, guardian, or the child to file a petition alleging that the child is subject to CHIPS jurisdiction and requires such a petition to include a statement that the child is in need of supervision, services, care, or rehabilitation.

This bill grants to the juvenile court CHIPS jurisdiction over a child who is alleged to be in need of supervision, services, care, or rehabilitation, but whose guardian neglects, refuses, or is unable to sign the petition requesting that jurisdiction.

whose guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child, but is unwilling or

**BILL**

*(4m)* whose guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child but is unwilling or

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 (11m) of the statutes is amended to read:

2 48.13 (11m) Who is suffering from an alcohol and other drug abuse  
3 impairment, exhibited to a severe degree, for which the parent, guardian or legal  
4 custodian is neglecting, refusing or unable to provide treatment; or

5 **SECTION 2.** 48.13 (11r) of the statutes is created to read:

6 48.13 (11r) Who is in need of supervision, services, care, or rehabilitation, but  
7 whose guardian neglects, refuses, or is unable to sign the petition requesting  
8 jurisdiction under this subsection; or

9 **SECTION 3.** 48.977 (2) (a) of the statutes is amended to read:

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11 services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m),  
12 or (11r) or 938.13 (4) and been placed, or continued in a placement, outside of his or  
13 her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363,  
14 48.365, 938.345, 938.357, 938.363, or 938.365 or that the child has been so adjudged  
15 and placement of the child in the home of a guardian under this section has been  
16 recommended under s. 48.33 (1) or 938.33 (1).

17 **SECTION 4.** 48.977 (4) (b) 3. of the statutes is amended to read:

18 48.977 (4) (b) 3. The date on which the child was adjudged in need of protection  
19 or services under s. 48.13 (1), (2), (3), (3m), (4), (5), (8), (9), (10), (10m), (11), or (11m),  
20 or (11r) or 938.13 (4) and the dates on which the child has been placed, or continued  
21 in a placement, outside of his or her home pursuant to one or more court orders under

**BILL**

1 s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child  
2 has been so adjudged, but not so placed, the date of the report under s. 48.33 (1) or  
3 938.33 (1) in which placement of the child in the home of the person is recommended.

**SECTION 5. Initial applicability.**

4  
5 (1) CHILD IN NEED OF PROTECTION OR SERVICES; FAILURE OF GUARDIAN TO SIGN  
6 PETITION. This act first applies to a child who meets the conditions specified in section  
7 48.13 <sup>(4m)</sup> ~~(11)~~ of the statutes, as created by this act, on the effective date of this  
8 subsection.

9 (END)

**Parisi, Lori**

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**From:** Griffiths, Terri  
**Sent:** Monday, May 07, 2007 11:26 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-1747/2 Topic: Child in need of protection or services ground for child whose guardian refuse to file petition requesting those services

Please Jacket LRB 07-1747/2 for the ASSEMBLY.