

2009 DRAFTING REQUEST

Bill

Received: **09/27/2009**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Tricia Sieg**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Children - abuse and neglect
Children - out-of-home placement
Children - TPR and adoption**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Children in need of protection or services; children with siblings already in need

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>
/?	gmalaise 10/15/2009	jdye 10/20/2009		_____			S&L
/1			jfrantze 10/20/2009	_____	mbarman 10/20/2009	sbasford 12/16/2009	

FE Sent For:

*at intro
12/21/09*

<END>

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1/?	gmalaise	1/10/20 jls	10/20	10/20 PT			

FE Sent For:

<END>

Malaise, Gordon

From: Sieg, Tricia
Sent: Tuesday, September 22, 2009 12:14 PM
To: Malaise, Gordon
Subject: The Bill we spoke about on the phone

Subject: new borns of mother with children in foster care

Dear Senator Lazich,

I am writing to you out of concern for new born babies born to parents whom already have children under CHIPS orders living in foster care. Currently the laws in WI support new born babies going home with their mothers even if that particular mother has other children in foster care due to neglect, abuse, etc at the time the child was born. This is unfortunate because this parent has not completed the court orders for a safe return of the other children, so how can they be deemed safe for a new born baby. I have watched one particular mother abuse/neglect three newborn babies in a row while her older children remained in care. Eventually all of the newborns she was allowed to take home with her were detained by human services after they were neglected, but this should have never happened. The older children have already become victims to this mother why should each child there after be neglected/abused too? I firmly believe that if a parent has not done the rehabilitation process that the court orders in order for the return of her other children then a new born baby should never be placed in this parent's care. A new born baby born during an open CHIPS case should be automatically added to the CHIPS order and be protected in the same manner that the other children are being protected at the time of that child's birth. This is a very common practice in Milwaukee county, and needs to stop. When I voiced my concern to a case manager about this type of situation she told me that there are no laws in place to stop this from happening so they have to send these babies home until something bad happens. This loop hole in our laws is contributing to ongoing neglect and abuse, and the particular case I am speaking of the woman has had the opportunity to abuse/neglect 8 of her children. Which then takes me to the next concern.

How many children can an adult abuse and or neglect before we deem them unfit for life? At some point we need to say enough is enough. Is there any way to put a three strikes and your out law in place? If a parent voluntarily or involuntarily loses parental rights three times then that should be it. The reason why I also bring up the voluntary portion of this is because I have seen many unfit parents sign their parental rights away to avoid an involuntary termination of parental rights. This is common when they are pregnant or have another younger child they want to try parent that is not a part of the current TPR proceeding. If your unfit until you prove you have turned your life around and can be a suitable parent.

So in a nut shell this is what I see needing to happen....

1. If you give birth and you have children in the system already due to your neglect and or abuse then the new baby also needs to be added to the chips order at birth.
2. If you have a TPR in the process or pending then the new baby is automatically added to the current order of TPR. If a father can step up and show his ability to provide then he can take custody of the

09/22/2009

baby unless he too is a part of the CHIPS/TPR order.

It is time our state do something about this loop hole and protect the vulnerable babies born to parents that already have children in the system. Otherwise these babies get neglected and abused due to our broken system.

Let me now what I need to do or what I can do to get support necessary to get this moving as I have seen enough ongoing child abuse and neglect.

Sincerely, Laura Maki



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3556/1 (1)
GMM
jld

IN 10/13

✓

Gen

1 AN ACT ...; relating to: child in need of protection or services jurisdiction over a
2 child based on another child from the child's home being placed outside the
3 home under a juvenile court order and involuntary termination of parental
4 rights on the grounds of three or more prior voluntary or involuntary
5 terminations of parental rights.

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 who is alleged to be in need of protection or services that can be ordered by the juvenile court and who meets certain grounds, including any of the following: ✓

1. The child has been the victim of abuse (abuse). ✓
2. The child is at substantial risk of becoming the victim of abuse, based on reliable and credible information that another child in the home has been the victim of abuse (substantial risk of abuse). ✓
3. The child's parent, guardian, or legal custodian neglects, refuses, or is unable for reasons other than poverty to provide necessary care, food, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child (neglect). ✓
4. The child's parent, guardian, or legal custodian is at substantial risk of neglect based on reliable and credible information that the parent, guardian, or legal custodian has neglected another child in the home (substantial risk of neglect). ✓

*

This bill expands the substantial risk of abuse and substantial risk of neglect grounds for child in need of protection or services jurisdiction (CHIPS jurisdiction) ✓

by granting to the juvenile court CHIPS jurisdiction over a child: 1) who is at substantial risk of abuse based on the fact that another child from the child's home has been adjudged to be in need of protection or services based on abuse or substantial risk of abuse and is placed outside the home under a juvenile court order; or 2) whose parent, guardian, or legal custodian is at substantial risk of neglect based on the fact that another child from the child's home has been adjudged to be in need of protection or services based on neglect or substantial risk of neglect and is placed outside the home under a juvenile court order.

Under current law, the juvenile court may order an involuntary termination of parental rights (TPR) on certain grounds, including the ground of prior involuntary TPR to another child, which is established by proving: 1) that the child has been adjudged to be in need of protection or services on the grounds of abandonment, abuse, or neglect or that the child was born after the filing of a petition for TPR to a sibling of the child on that ground; and 2) that, within three years prior to the date of that adjudication or the birth of the child, the juvenile court has ordered an involuntary TPR with respect to another child of the parent.

TPR

This bill permits the juvenile court to order an involuntary TPR to a child on the ground of prior voluntary or involuntary TPR to another child, which is established by proving: 1) that the child has been adjudged to be in need of protection or services on the grounds of abandonment, abuse, substantial risk of abuse, neglect, or substantial risk of neglect or that the child was born after the filing of a petition for TPR to a sibling of the child on that ground; and 2) that the juvenile court has ordered a voluntary or involuntary TPR with respect to three or more other children of the parent.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

TPR

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

1 SECTION 1. 48.13 (3m) of the statutes is amended to read:

2 48.13 (3m) Who is at substantial risk of becoming the victim of abuse, as
3 defined in s. 48.02 (1) (a), (b), (c), (d), (e), (f), or (g), including injury that is
4 self-inflicted or inflicted by another, based on reliable and credible information that
5 another child in the home has been the victim of such abuse or on the fact that
6 another child from the child's home has been adjudged to be in need of protection or

1 services under this subsection or sub. (3) and is placed outside the home under an
2 order under s. 48.345, 48.357, 48.363, or 48.365;

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; 2007 a. 77.

3 **SECTION 2.** 48.13 (10m) of the statutes is amended to read:

4 48.13 (10m) Whose parent, guardian or legal custodian is at substantial risk
5 of neglecting, refusing or being unable for reasons other than poverty to provide
6 necessary care, food, clothing, medical or dental care or shelter so as to endanger
7 seriously the physical health of the child, based on reliable and credible information
8 that the child's parent, guardian or legal custodian has neglected, refused or been
9 unable for reasons other than poverty to provide necessary care, food, clothing,
10 medical or dental care or shelter so as to ~~endanger~~ seriously endanger the physical
11 health of another child in the home or on the fact that another child from the child's
12 home has been adjudged to be in need of protection or services under this subsection
13 or sub. (10) and is placed outside the home under an order under s. 48.345, 48.357,
14 48.363, or 48.365;

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; 2007 a. 77.

15 **SECTION 3.** 48.415 (11) of the statutes is created to read:

16 **48.415 (11) PRIORITY VOLUNTARY OR INVOLUNTARY TERMINATION OF PARENTAL RIGHTS**
17 **TO ANOTHER CHILD.** Priority voluntary or involuntary termination of parental rights to
18 another child, which shall be established by proving all of the following:

19 (a) That the child who is the subject of the petition has been adjudged to be in
20 need of protection or services under s. 48.13 (2), (3), (3m), (10), or (10m); or that the
21 child who is the subject of the petition was born after the filing of a petition under
22 this subsection whose subject is a sibling of the child.

A

(b) That a court has ordered the termination of parental rights with respect to 3 or more other children of the person whose parental rights are sought to be terminated based on the consent of that person under s. 48.41 or on one or more of the grounds specified in this section.

SECTION 4. 48.427 (7) (a) of the statutes is amended to read:

48.427 (7) (a) If an order is entered under sub. (3), the court may orally inform the parent or parents who appear in court of the ground for termination of parental rights specified in s. 48.415 (10) or (11).

History: 1979 c. 330; 1981 c. 81, 359; 1985 a. 70, 176; 1995 a. 275, 289; 1997 a. 80, 104, 237; 2005 a. 25, 232; 2009 a. 28.

SECTION 5. Initial applicability.

(1) CHILD IN NEED OF PROTECTION OR SERVICES. The treatment of section 48.13 (3m) and (10m) of the statutes first applies to a petition under section 48.255 of the statutes alleging that a child is in need of protection or services filed on the effective date of this subsection.

(2) TERMINATION OF PARENTAL RIGHTS. The treatment of sections 48.415 (11) and 48.427 (7) (a) of the statutes first applies to a petition for termination of parental rights under section 48.42 (1) of the statutes filed on the effective date of this subsection but does not preclude consideration of prior orders of a court terminating parental rights with respect to a child who is not the subject of the petition in determining whether to terminate, or to find grounds to terminate, the parental rights of a person under section 48.415 (11) of the statutes, as created by this act.

(END)

Duerst, Christina

From: Sen.Lazich

Sent: Wednesday, December 16, 2009 11:35 AM

To: LRB.Legal

Subject: Draft Review: LRB 09-3556/1 Topic: Children in need of protection or services; children with siblings already in need

Please Jacket LRB 09-3556/1 for the SENATE.

12/16/2009