Wisconsin Department of Administration
Division of Executive Budget and Finance

Fiscal Estimate - 2013 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number **13-1628/1**	Introduction Number **AB-0150**

Description
Posttermination of parental rights contact between a child and a birth relative of the child; disclosure of the name and address of an out-of-home placement of a child; sharing of home study reports with another agency; elimination of home studies for certain proposed adoptive parents; disclosure of the name and last-known address of a proposed adoptive parent of a child to an agency that is determining the availability of an adoptive placement for a sibling of the child; providing full faith and credit to a tribal court proceeding for a suspension of parental rights or an adoption under tribal law or custom; and jurisdiction over and venue for an adoption petition

Fiscal Effect

State:
- ☐ No State Fiscal Effect
- ☒ Indeterminate
  - ☐ Increase Existing Appropriations
  - ☐ Decrease Existing Appropriations
  - ☐ Create New Appropriations
  - ☐ Increase Existing Revenues
  - ☐ Decrease Existing Revenues
  - ☐ Increase Costs - May be possible to absorb within agency's budget ☐ Yes ☐ No
  - ☐ Decrease Costs

Local:
- ☐ No Local Government Costs
- ☒ Indeterminate
  1. ☐ Increase Costs ☐ Permissive ☐ Mandatory
  2. ☐ Decrease Costs ☐ Permissive ☐ Mandatory
  3. ☐ Increase Revenue ☐ Permissive ☐ Mandatory
  4. ☐ Decrease Revenue ☐ Permissive ☐ Mandatory
  5. Types of Local Government Units Affected
     ☐ Towns ☐ Village ☐ Cities
     ☒ Counties ☐ Others
     ☐ School Districts ☐ WTCS Districts

Fund Sources Affected
☐ GPR ☐ FED ☐ PRO ☐ PRS ☐ SEG ☐ SEGS

Affected Ch. 20 Appropriations

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DCF 8/14/2013

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Assumptions Used in Arriving at Fiscal Estimate

This bill makes various changes to existing child welfare statutes.

Post Termination Contract
This bill permits a post termination contact agreement to be entered into between the proposed adoptive parents or guardian of a child and a relative of the child at any time before the Termination of Parental Rights (TPR) is granted. A child over the age of 12, must consent to the terms of an agreement. The bill provides that a post-termination contract may provide for any of the following: 1) visitation between the child and a relative; 2) future contract and communication between the child, adoptive parent, or a guardian and a relative of the child. 3) the sharing of information about the child in the future between the parent or guardian and a relative of the child; 4) the sharing of medical and genetic history of any relative who is a party to the agreement.

The bill specifies a number of conditions that the post-termination contract must meet, including that the juvenile court determines that the agreement was entered into voluntarily, whithout coercion or threats, and the parties have not relied on any representations other than those contained in the agreement.

Under the bill, a post-determination contract that has been approved by the juvenile court is enforeceable by the juvenile court. Before petitioning the juvenile court for specific performance of the agreement, however, the petitioner must attempt to participate in good faith in formal or informal mediation or other appropriate disput resolution proceedings to resolve the dispute.

The bill provides that a post-termination contract agreement that has been approved by the juvenile court may be terminated or modified by agreement of the parties, which the juvenile court must approve if it finds that the termination or modification would be in the best interests of the child.

The bill provides that a post-termination contact agreement that has been approved by the juvenile court may be terminated or modified by agreement of the parties, which the juvenile court must approve if it finds that the termination or modification would be in the best interests of the child.

The juvenile court may also terminate or modify an agreement if a party shows that the termination or modification would be in the best interests of the child, or that there has been a substantial change in circumstances since the entry of the last order affecting the agreement, and that the petitioner, before filing the petition, participated, or attempted to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the dispute giving rise to the filing of the petition. An order upon a petition to modify an approved post-termination contact agreement may limit, restrict, condition, or decrease visitation, contact, communication, or sharing of information between the child and a relative of the child, but may not expand that visitation, contact, communication, or sharing of information or place any new obligations on the adoptive parent or guardian.

Sharing of a Home Study Report
Under current law, records and papers pertaining to an adoption proceeding may not be disclosed except under certain statutory exceptions or by order of the juvenile court for good cause shown. The bill permits a proposed adoptive parent whose home is the subject of an investigation to determine whether the home is suitable for the child (home study) to ask the agency conducting the home study to disclose its report of the home study to another agency authorized to place children for adoption, the state adoption information

exchange, or the state adoption center. Within ten days after receipt of such a request, the agency must disclose the report to the person named in the request, unless the agency petitions the juvenile court for an order permitting the agency not to disclose the report, to restrict the information to be disclosed, or to defer disclosure of the report to a later date or for such other appropriate relief as the agency may request and the juvenile court finds good cause for granting the relief requested.

Home Study of an Adoptive Parent
Under current law, after an adoption petition is filed, the juvenile court must order an investigation to determine whether the child the proposed adoptive parent's home is suitable for the child. The home of a proposed adoptive parent must be investigated for adoption purposes even if the proposed adoptive parent has obtained a license to operate a foster home.

This bill eliminates the requirement for a home study to be conducted for purposes of an adoption if all of the following apply: 1) the proposed adoptive parent's home is a foster home certified to provide level 2 care; 2) the proposed adoptive parent is licensed to operate his or her home as a foster home certified to provide level 2 care and the license is effective at the time the adoption petition is filed; 3) the proposed adoptive parent has never had a license to operate a foster home revoked or suspended; 4) the child to be adopted has resided in the home for 12 consecutive months or more immediately prior to the filing of the adoption petition; and 5) the foster home investigation was conducted in accordance with standards established by DCF for investigating a foster home that will be converting into an adoptive home.

Disclosure of Name and Address of an Out-of-Home Placement
Under current law, the juvenile court may order that the name and address of the foster parent be withheld and not included in the copy of the court report or dispostional order given to the child's parent or guardian if the juvenile court finds that disclosure would result in imminent danger to the child or to the foster parent. The juvenile court must hold a hearing on this matter prior to ordering that the information be withheld.

The juvenile court may also order the name and address of a foster parent be withheld in the copy of the dispositional order given to the child's parent or guardian if the juvenile court holds a hearing and finds that disclosure would result in imminent harm to the child or foster parent. Current law does not include a confidentiality provision for withholding this information, if there is a change in out-of-home placement.

This bill creates a procedure for a juvenile court to order the name and address of any out-of-home placement to be withheld from the copy of the CHIPS petition, petition filed under the Juvenile Justice Code, court report, or dispositional order that is given to a child or juvenile's parent or guardian if, after holding a hearing on the matter with notice given to the parent or guardian, the juvenile court finds that disclosure is not in the best interests of the child.

Disclosure of Last-Know Address of an Adoptive Parent or Proposed Adoptive Parent
This bill permits records and papers pertaining to an adoption proceeding to be disclosed for purposes of determining the availability of a placement for a child with an adoptive parent or proposed adoptive parent of a sibling of the child.

Tribal Court Proceeding for a Suspension of Parental Rights or an Adoption under Tribal Law or Custom
In 2009, Wisconsin incorporated the Federal Indian Child Welfare Act (ICWA) in the Children's Code and the Juvenile Justice Code. ICWA accords full faith and credit by the state to a tribal court's ICWA accords full faith and credit by the state to a tribal court's Indian child custody proceeding, just as the state would to a judicial proceeding of any other governmental entity.

An "Indian child custody proceeding" in a state court means an action for an adoptive placement, an out-of-home care placement, a pre-adoptive placement, or a TPR. That definition does not include a proceeding in a tribal court for a suspension, rather than a termination, of parental rights, or an adoption under tribal law or custom.

This bill provides definitions for an "adoption under tribal law or custom" and a "suspension of parental rights," and provides that such actions by a tribal court are accorded full faith and credit by a state court.

Jurisdiction and Venue for an Adoption Petition
Under current law, the juvenile court of the county where the proposed adoptive parent or child resides has jurisdiction over the child until the adoption petition is withdrawn, denied, or granted. Similarly, the venue for an adoption petition is the county where the proposed adoptive parent or child resides at the time that the petition is filed. The juvenile court may, however, transfer the case to another juvenile court. The bill extends jurisdiction over and venue for an adoption petition to the juvenile court in the county where the TPR was filed.

Fiscal Estimates
Establishing a formal procedure for post-termination contracts may increase the administrative burden on child welfare agencies. Case management social workers may spend additional time reviewing potential agreements and determining whether the agreements are in the best interest of the child and may spend additional time in court proceedings related to these agreements. It is difficult to determine the additional administrative workload resulting from these provisions, so the fiscal effect of these provisions cannot be determined.

The sharing of a home study and elimination of home study for existing foster parents is expected to make adoption program operate more expeditiously and efficiently. It is difficult to predict how much more efficient the adoption programs will become, and thus difficult to determine the amount of any potential savings.

Clarifying procedures relating to the disclosure of a name and address related to an out-of-home care placement is not expected to impact any existing resources and likely will not have a fiscal effect. Similarly, providing definitions to "adoption under tribal law or custom" and a "suspension of parental rights" is not anticipated to have a fiscal effect on current practices.

Long-Range Fiscal Implications