



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 522**

September 8, 2005 – Offered by COMMITTEE ON CHILDREN AND FAMILIES.

1     **AN ACT** *to renumber and amend* 767.325 (5m); and *to create* 767.24 (5) (am)  
2             12m. and 767.325 (5m) (b) of the statutes; **relating to:** considering a person's  
3             criminal record and evidence of abuse or neglect of any child when determining  
4             custody or physical placement of a child.

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

Under current law, when a court determines the custody or physical placement of a child in an action affecting the family, such as a divorce, the court must consider all factors relevant to the best interest of the child. The statutes contain a number of specific factors that the court must consider, including whether either parent has engaged in abuse of the child.

This substitute amendment provides that when a court determines the custody or physical placement of a child in an action affecting the family, in addition to the factors under current law, the court must consider whether a person with whom a parent of the child has a dating relationship, or a person who resides, has resided, or will reside regularly or intermittently in a proposed custodial household, has a criminal record or has abused or neglected the child or any other child.

Also under current law, when a court decides whether to modify custody or physical placement of a child after an initial determination, the court must consider the same factors that the court must consider when making the initial determination. The substitute amendment requires a court also to consider whether

a stepparent of the child has a criminal record or has abused or neglected the child or any other child when deciding whether to modify custody or physical placement of a child after an initial determination.

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

1           **SECTION 1.** 767.24 (5) (am) 12m. of the statutes is created to read:

2           767.24 (5) (am) 12m. Whether any of the following has a criminal record and  
3 whether there is evidence that any of the following has engaged in abuse, as defined  
4 in s. 813.122 (1) (a), of the child or any other child or neglected the child or any other  
5 child:

6           a. A person with whom a parent of the child has a dating relationship, as  
7 defined in s. 813.12 (1) (ag).

8           b. A person who resides, has resided, or will reside regularly or intermittently  
9 in a proposed custodial household.

10          **SECTION 2.** 767.325 (5m) of the statutes is renumbered 767.325 (5m) (a) and  
11 amended to read:

12          767.325 (5m) (a) In Subject to par. (b), in all actions to modify legal custody or  
13 physical placement orders, the court shall consider the factors under s. 767.24 (5)  
14 (am), subject to s. 767.24 (5) (bm), and shall make its determination in a manner  
15 consistent with s. 767.24.

16          **SECTION 3.** 767.325 (5m) (b) of the statutes is created to read:

17          767.325 (5m) (b) In determining the best interest of the child under this  
18 section, in addition to the factor under s. 767.24 (5) (am) 12m., the court shall  
19 consider whether a stepparent of the child has a criminal record and whether there

1 is evidence that a stepparent of the child has engaged in abuse, as defined in s.  
2 813.122 (1) (a), of the child or any other child or neglected the child or any other child.

3 **SECTION 4. Initial applicability.**

4 (1) This act first applies to actions or proceedings, including actions or  
5 proceedings to modify a judgment or order previously granted, that are commenced  
6 on the effective date of this subsection.

7 (END)