



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 311

Senate Amendment 1

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Contact: Laura Rose, Deputy Director (266-9791)

2005 Assembly Bill 311

Current law sets forth criteria under which a child custody or physical placement order may be modified. Different criteria apply depending upon whether the modification occurs within the two-year period after an initial order is entered, or whether the modification occurs after the initial two-year period.

Case law provides that courts lack authority to include in custody or physical placement order a prospective modification of custody or physical placement that is contingent upon the occurrence of a future event or a change in current conditions.

2005 Assembly Bill 311 authorizes a court to provide for future modifications to, or retain the option to modify at a future time, legal custody or physical placement upon the occurrence of a specified future event or a specified change in current conditions.

Senate Amendment 1

Senate Amendment 1 provides that the court's authority to provide for future modifications to a legal custody or physical placement order upon occurrence of a specified future event or a specified change in current conditions does not apply if a presumption exists, under current law, that it is detrimental to the child and against the child's best interests to award custody to a party, because there has been a finding that a party has engaged in a pattern or serious incident of interspousal battery or domestic abuse.

Legislative History

On February 8, 2006, the Senate Committee on Health, Children, Families, Aging, and Long-Term Care recommended introduction and adoption of Senate Amendment 1 by a vote of Ayes, 5; Noes, 0; and recommended passage of the bill, as amended, by a vote of Ayes, 3; Noes, 2.

LR:ksm