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# Wisconsin Legislative Council

## AMENDMENT MEMO

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**2019 Assembly Bill 47**

**Assembly  
Amendment 1**

### CURRENT LAW

Chapter 54, Stats., currently governs guardianships of the person, estate, or both of minors, as well as incompetent or spendthrift adults. Unlike certain, specialized minor guardianships under ch. 48, Stats., minor guardianships under ch. 54, Stats., do not require involvement by the child welfare system and therefore are informally referred to as “private” guardianships.

### 2019 ASSEMBLY BILL 47

Assembly Bill 47 removes guardianships of a minor’s person from ch. 54, Stats., and creates a new statute governing guardianships of a child’s person in a new subchapter under ch. 48, Stats. The bill creates four types of guardianships of a child’s person: full; limited; temporary; and emergency. The bill also specifies procedures for the different types of private guardianships, outlines the role of a guardian ad litem in a private guardianship case, and provides procedures for a number of post-appointment matters.

The bill does not change the process or standard for appointment of a guardian in the specialized circumstances under ch. 48, Stats. The bill also specifies that a petition filed under the new statute may not seek to change preexisting orders entered in certain actions under chs. 48 and 938, Stats. If any such actions are pending, the bill requires the court to stay any subsequent proceedings under the new statute until the pending action is resolved, subject to certain exceptions. In addition, the bill prohibits a dispositional order under the new statute from changing the placement of a child under the supervision of a court in certain types of actions.

### ASSEMBLY AMENDMENT 1

Assembly Amendment 1 makes the following changes to the bill:

- Clarifies that a kinship care relative does not need to apply for a license to operate a foster home if a child is placed in the home of the kinship care relative pursuant to a private guardianship order.
- In a number of provisions, the bill addresses the relationship between a private guardianship and an “action” pending under ch. 938, Stats., and certain statutes within ch. 48, Stats. The amendment deletes all references to an “action” pending and instead refers to a “matter” pending.
- Corrects a technical error to clarify that a private guardianship petition may revise a private guardianship order.
- Clarifies that the duties and authorities for a private guardian do not abridge the duties and authorities of a guardian appointed under any other provision within ch. 48, Stats.

- The bill requires that a court order appointing a guardian ad litem include an order that the custodian of any report or record specified in the bill allow the guardian ad litem to inspect and copy the report or record. The amendment clarifies that this court order applies only to a report or record “relating to the child.”
- The bill specifies that, if an action is pending under either ch. 938, Stats., or certain statutes within ch. 48, Stats., a court may approve a private guardianship petition only if the petition is consistent with the child’s permanency plan and other requirements are met. The amendment clarifies that any such petition must be consistent “with the goal or goals” of the child’s permanency plan.
- Specifies that neither a private guardianship dispositional order nor an emergency private guardianship order may change the placement of a child under the supervision of a court under either ch. 938, Stats., or certain statutes within ch. 48, Stats.

## **BILL HISTORY**

Representative Steineke offered Assembly Amendment 1 on September 4, 2019. On September 10, 2019, the Assembly Committee on Family Law recommended adoption of the amendment and passage of the bill, as amended, on votes of Ayes, 9; Noes, 0.

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