



1995 ASSEMBLY BILL 646

October 27, 1995 - Introduced by Representatives REYNOLDS, KLUSMAN, ALBERS, GROTHMAN, GOETSCH, BRANDEMUEHL, PLACHE, HAHN and GRONEMUS, cosponsored by Senator DARLING. Referred to Committee on Judiciary.

1 **AN ACT to amend** 48.46 (2) and 809.107 (5) of the statutes; **relating to:** the time
2 within which a parent may move for relief from a judgment or order terminating
3 parental rights.

Analysis by the Legislative Reference Bureau

Under current law, a parent who has consented to the termination of his or her parental rights (TPR) or who did not contest the TPR may move for relief from the TPR judgment or order, on such grounds as mistake, newly discovered evidence or fraud, within 40 days after the entry of the judgment or order, unless the parent files a notice of intent to appeal the TPR within 15 days after the entry of the judgment or order, in which case, the parent may move for relief from the judgment or order within 120 days after the entry of the judgment or order. Currently, a parent who did contest a TPR may move for relief from the TPR judgment or order, on such grounds as mistake, newly discovered evidence or fraud, within one year after the entry of the judgment or order. This bill requires that a motion by a parent for relief from a TPR judgement or order, on such grounds as mistake, newly discovered evidence or fraud, must be filed within 15 days after the entry of the judgment or order or, if the parent timely files a notice of appeal, within 75 days after the entry of the judgment or order. The time limits specified in the bill apply to all TPR judgments or orders, whether consented to, contested or noncontested.

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

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

4 **SECTION 1.** 48.46 (2) of the statutes is amended to read:

1 48.46 (2) A parent who has consented to the termination of his or her parental
2 rights under s. 48.41 or who did not contest the petition initiating the proceeding in
3 which his or her whose parental rights were have been terminated may move the
4 court for relief from the judgment on any of the grounds specified in s. 806.07 (1) (a),
5 (b), (c), (d) or (f). Any such motion shall be filed within 40 15 days after the entry of
6 the judgment or order terminating parental rights, unless the parent files a timely
7 notice of intent to pursue relief from the judgment under s. 808.04 (~~7~~) (7m), in which
8 case the motion shall be filed within the time permitted by s. ~~809.30 (2) (h)~~ 809.107
9 (5). A motion under this subsection does not affect the finality or suspend the
10 operation of the judgment or order terminating parental rights. Motions under this
11 subsection and appeals to the court of appeals shall be the exclusive remedies for
12 such a parent to obtain a new hearing in a termination of parental rights proceeding.

13 **SECTION 2.** 809.107 (5) of the statutes is amended to read:

14 809.107 (5) NOTICE OF APPEAL; TRANSMITTAL OF RECORD. Within 15 days after
15 service of the transcript, the person filing a notice of intent to appeal under sub. (2)
16 shall file a notice of appeal and docketing statement as provided in s. 809.10 (1) (a)
17 or a motion for relief from the judgment as provided in s. 48.46 (2) and serve a copy
18 of the notice or motion on the persons required to be served under sub. (2). The clerk
19 of the trial court shall transmit the record to the court of appeals as soon as the record
20 is prepared but in no event more than 15 days after the filing of the notice of appeal.

21 **SECTION 3. Initial applicability.**

22 (1) RELIEF FROM TERMINATION OF PARENTAL RIGHTS JUDGMENTS OR ORDERS. This
23 act first applies to judgments or orders terminating parental rights entered on the
24 effective date of this subsection.

25 **(END)**