



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-5341/1
EAW:ahc&cdc

2019 ASSEMBLY BILL 778

January 22, 2020 - Introduced by Representatives TITTL, C. TAYLOR, SUBECK and GRUSZYNSKI, cosponsored by Senators JACQUE, CARPENTER and NASS. Referred to Committee on Children and Families.

1 **AN ACT to renumber and amend** 48.345 (3) (a) and 48.345 (3) (b); and **to create**
2 48.345 (3) (a) 1. and 2., 48.345 (3) (b) 1. and 2. and 48.685 (4m) (b) 2. and 2m.
3 of the statutes; **relating to:** prohibiting the out-of-home placement of a child
4 with a person with a record of a crime against a child.

Analysis by the Legislative Reference Bureau

This bill prohibits the out-of-home placement of a child with a nonparent relative or other unlicensed person if that relative or person has been convicted, pled no contest, or had a charge for a crime against a child against him or her dismissed or amended as a result of a plea agreement. This bill also prohibits subsidized guardianships and licensing of child welfare agencies, foster homes, group homes, and shelter care facilities under the Children's Code if the license applicant, an employee, or a nonclient resident has pled no contest to certain crimes against a child or had a charge against them for certain crimes against a child dismissed or amended as the result of a plea agreement.

Under current law, a court assigned to exercise jurisdiction under the Children's Code (juvenile court) may designate an out-of-home placement for a child found to be in need of protection or services (CHIPS). Under current law, the juvenile court may place a child in the home of a relative or may temporarily place a child with a person who is not licensed under the Children's Code, unless the relative or unlicensed person has been convicted of the first- or second-degree intentional homicide of a parent of the child. Under this bill, the juvenile court may not place a child with a relative other than a parent or with a person who is not licensed under

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the Children's Code if the relative or unlicensed person has been convicted, pled no contest, or been subject to a plea agreement for a crime against a child.

Under current law, if the juvenile court places a child in out-of-home care, including in a foster home, a shelter care facility, a group home, subsidized guardianship, or with a relative, the out-of-home care placement is required to apply for a license. Under current law, any licensee, its employees, and its nonclient residents are required to undergo a background investigation, and the out-of-home placement may not receive a license if the background investigation indicates that the licensee, an employee, or a nonclient resident has been convicted or adjudicated delinquent of certain offenses, including certain crimes against a child, or if there has been a final determination by a child protective services agency that the person has abused or neglected a child. Under this bill, the out-of-home care placement may not receive a license if the background investigation shows that the licensee, employee, or nonclient resident has pled no contest to a charge of certain crimes against a child or has had a charge against them for certain crimes against a child dismissed or amended as a result of a plea agreement.

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:

1 **SECTION 1.** 48.345 (3) (a) of the statutes is renumbered 48.345 (3) (a) (intro.)
2 and amended to read:

3 48.345 (3) (a) (intro.) The home of a parent or other relative of the child, except
4 that the judge may not designate ~~the home of a parent or other relative of the child~~
5 any of the following as the child's placement ~~if the parent or other relative has been~~
6 ~~convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05~~
7 ~~of the 2nd-degree intentional homicide, of a parent of the child, and the conviction~~
8 ~~has not been reversed, set aside or vacated,~~ unless the judge determines by clear and
9 convincing evidence that the placement would be in the best interests of the child.
10 The judge shall consider ~~the wishes of the child in making that determination.:~~

11 **SECTION 2.** 48.345 (3) (a) 1. and 2. of the statutes are created to read:

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1 48.345 (3) (a) 1. The home of a parent or other relative of the child if the parent
2 or other relative has been convicted under s. 940.01 of the first-degree intentional
3 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of
4 the child, and the conviction has not been reversed, set aside, or vacated. In
5 determining whether a placement under this subdivision is in the best interest of the
6 child, the judge shall consider the wishes of the child.

7 2. The home of a relative other than the parent of a child if the judge finds that
8 the relative has been convicted of a crime under ch. 948, has pled no contest to a crime
9 under ch. 948, or has had a charge for a crime under ch. 948 dismissed or amended
10 as a result of a plea agreement.

11 **SECTION 3.** 48.345 (3) (b) of the statutes is renumbered 48.345 (3) (b) (intro.)
12 and amended to read:

13 48.345 (3) (b) (intro.) The home of a person who is not required to be licensed
14 if placement is for less than 30 days, except that the judge may not designate the
15 home of a person who is not required to be licensed any of the following as the child's
16 placement if the person has been convicted under s. 940.01 of the first-degree
17 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
18 a parent of the child, and the conviction has not been reversed, set aside or vacated,
19 unless the judge determines by clear and convincing evidence that the placement
20 would be in the best interests of the child. ~~The judge shall consider the wishes of the~~
21 ~~child in making that determination.;~~

22 **SECTION 4.** 48.345 (3) (b) 1. and 2. of the statutes are created to read:

23 48.345 (3) (b) 1. The home of a person who is not required to be licensed if the
24 person has been convicted under s. 940.01 of the first-degree intentional homicide,
25 or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child,

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1 and the conviction has not been reversed, set aside, or vacated. In determining
2 whether a placement under this subdivision is in the best interest of the child, the
3 judge shall consider the wishes of the child.

4 2. The home of a person who is not required to be licensed if the judge finds that
5 the person has been convicted of a crime under ch. 948, has pled no contest to a crime
6 under ch. 948, or has had a charge for a crime under ch. 948 dismissed or amended
7 as a result of a plea agreement.

8 **SECTION 5.** 48.685 (4m) (b) 2. and 2m. of the statutes are created to read:

9 48.685 (4m) (b) 2. That the person was charged for a violation of s. 948.02 (1)
10 or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06,
11 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21,
12 948.215, 948.30, or 948.53, or a similar law of another state, and the charge was
13 dismissed or amended as part of a plea agreement.

14 2m. That the person has pled no contest to a violation of s. 948.02 (1) or (2),
15 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07,
16 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215,
17 948.30, or 948.53, or a similar law of another state.

18 (END)