



2003 ASSEMBLY BILL 73

February 18, 2003 – Introduced by Representatives LADWIG, JESKEWITZ, AINSWORTH, FREESE, FRISKE, GIELOW, GRONEMUS, GUNDERSON, HAHN, HINES, HUEBSCH, JENSEN, KERKMAN, KRAWCZYK, F. LASEE, M. LEHMAN, MCCORMICK, MONTGOMERY, MUSSER, OLSEN, OTT, OWENS, PETROWSKI, PLOUFF, SERATTI, TOWNSEND, VRAKAS and J. WOOD, cosponsored by Senators STEPP, COWLES, KANAVAS, LAZICH, ROESSLER and SCHULTZ. Referred to Committee on Children and Families.

1 **AN ACT** *to amend* 48.21 (4) (intro.); and *to create* 48.21 (4m) and 48.417 (1) (bm)
2 of the statutes; **relating to:** termination of parental rights and adoptive
3 placement of a newborn child whose custody has been relinquished by his or her
4 parent.

Analysis by the Legislative Reference Bureau

Under current law, a child whom a law enforcement officer, emergency medical technician, or hospital staff member reasonably believes to be 72 hours old or younger (newborn child) may be taken into custody under circumstances in which a parent of the newborn child relinquishes custody of the newborn child to the law enforcement officer, emergency medical technician, or hospital staff member and does not indicate an intent to return for the newborn child. Within 24 hours after taking the newborn child into custody, the law enforcement officer, emergency medical technician, or hospital staff member must deliver the newborn child to the intake worker of the court assigned to exercise jurisdiction under the Children's Code (juvenile court), and the intake worker must determine whether to hold the newborn child in custody. If the intake worker determines to hold the newborn child in custody, a hearing must be held within 48 hours of that determination to determine whether the newborn child shall continue to be held in custody. If the juvenile court finds that the newborn child should continue to be held in custody, the juvenile court must include in its order continuing the newborn child in custody a determination that reasonable efforts to make it possible for the newborn child to return safely home are not required and must hold a hearing within 30 days after that

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determination to determine a permanency plan for the newborn child, which is a plan designed to ensure that a child quickly attains a placement or home providing long-term stability. Current law also permits the juvenile court to involuntarily terminate the parental rights of a parent of a newborn child on the grounds that the parent relinquished custody of the newborn child when the newborn child was 72 hours old or younger.

This bill provides that if a juvenile court determines that a newborn child whose custody has been relinquished as provided under current law should be continued to be held in custody, the juvenile court must transfer guardianship and legal custody of the newborn child to the Department of Health and Family Services (DHFS), a child welfare agency that is licensed to accept guardianship of children and to place children for adoption, or a county department of human services or social services (county department) that is authorized to accept guardianship of children and to place children for adoption and must order DHFS, the child welfare agency, or the county department (collectively, “agency”) to place the newborn child for adoption in a licensed foster home or a licensed treatment foster home. Under the bill, the agency making the placement must require the proposed adoptive parent to sign a statement acknowledging that the proposed adoptive parent understands that there is no guarantee that the adoption will be finalized. The bill also requires a petition to terminate the parental rights of a parent of a newborn child who has been relinquished as provided under current law to be filed no earlier than 30 days after the date on which the child was relinquished and no later than 60 days after the date on which the juvenile court found that the child was relinquished.

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.** 48.21 (4) (intro.) of the statutes is amended to read:

2 48.21 (4) CONTINUATION OF CUSTODY. (intro.) ~~If Subject to sub. (4m), if~~ the judge
3 or circuit court commissioner finds that the child should be continued in custody
4 under the criteria of s. 48.205, ~~he or she~~ the judge or circuit court commissioner shall
5 enter one of the following orders:

6 **SECTION 2.** 48.21 (4m) of the statutes is created to read:

7 48.21 (4m) CONTINUATION OF CUSTODY; RELINQUISHED NEWBORN CHILD. If the
8 judge or circuit court commissioner finds that a child who has been taken into

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1 custody under s. 48.195 (1) should be continued in custody under the criteria of s.
2 48.205, the judge or circuit court commissioner shall transfer guardianship and legal
3 custody of the child to the department, a child welfare agency licensed under s. 48.61
4 (5), or a county department authorized to accept guardianship under s. 48.57 (1) (e)
5 and shall order the department, child welfare agency, or county department to place
6 the child for adoption under s. 48.833. The department, child welfare agency, or
7 county department making the placement shall require the proposed adoptive
8 parent to sign a statement acknowledging that the proposed adoptive parent
9 understands that there is no guarantee that the adoption will be finalized.

10 **SECTION 3.** 48.417 (1) (bm) of the statutes is created to read:

11 48.417 (1) (bm) A court of competent jurisdiction has found that a parent of the
12 child relinquished custody of the child under s. 48.195 (1) or under the law of any
13 other state or a federal law that is comparable to s. 48.195 (1). If the circumstances
14 specified in this paragraph apply, the petition shall be filed or joined in no earlier
15 than 30 days after the date on which the child was relinquished as described in this
16 paragraph and no later than 60 days after the date on which the court of competent
17 jurisdiction found that the child was relinquished as described in this paragraph.

18 **SECTION 4. Initial applicability.**

19 (1) TERMINATION OF PARENTAL RIGHTS AND ADOPTIVE PLACEMENT OF NEWBORN CHILD
20 WHOSE CUSTODY HAS BEEN RELINQUISHED. This act first applies to a child whose custody
21 is relinquished, as described in section 48.195 (1) of the statutes, on the effective date
22 of this subsection.

23 (END)