



2019 SENATE BILL 728

January 29, 2020 - Introduced by Senators STROEBEL, OLSEN and COWLES, cosponsored by Representatives SNYDER, KULP, DITTRICH, FELZKOWSKI, HORLACHER, JAMES, KATZMA, KERKMAN, KURTZ, MAGNAFICI, MILROY, MURPHY, RAMTHUN, TUSLER, TRANEL, THIESFELDT, VANDERMEER, TITTL and EDMING. Referred to Committee on Insurance, Financial Services, Government Oversight and Courts.

1 **AN ACT** *to create* 48.415 (2) (b) of the statutes; **relating to:** termination of
2 parental rights if a child has been placed outside the home for 15 of the last 22
3 months.

Analysis by the Legislative Reference Bureau

This bill expands the termination of parental rights (TPR) ground based on a child's continuing need of protection or services.

Current law provides various grounds for an involuntary TPR, including continuing need of protection or services, which must be established by proving 1) that the child has been adjudged to be a child or juvenile in need of protection or services (CHIPS) and placed, or continued in a placement, outside the child's home pursuant to one or more orders of the court assigned to exercise jurisdiction under the Children's Code (juvenile court); 2) that the agency responsible for the care of the child has made a reasonable effort to provide the services ordered by the juvenile court; and 3) that the child has been outside the home for a cumulative total period of six months or longer, the parent has failed to meet the conditions established for the safe return of the child to the home, and there is a substantial likelihood that the parent will not meet those conditions by the time the child has been placed outside the home for 15 of the last 22 months.

Under the bill, the involuntary TPR ground of continuing need of protection or services may also be established by proving that a child has been placed outside of his or her home on a continuing CHIPS order for 15 of the last 22 months and that a review panel or court has not, in the 22 months prior to the filing of the TPR

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petition, found that the agency failed to make reasonable efforts to achieve a permanency goal. Under the bill, if the child is an Indian child, the petitioner must also show that continued custody of the Indian child by the Indian child's parent or Indian custodian is likely to result in serious emotional or physical damage to the Indian child and that active efforts have been made to prevent the breakup of the Indian child's family but those efforts have proved to be unsuccessful.

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.** 48.415 (2) (b) of the statutes is created to read:

2 48.415 (2) (b) That all of the following apply, except that if a parent filed the
3 petition under s. 48.255 that resulted in the order under subd. 1., that parent's
4 parental rights may not be terminated under this paragraph:

5 1. That the child has been adjudged to be a child or an unborn child in need of
6 protection or services and placed, or continued in a placement, outside his or her
7 home pursuant to one or more court orders under s. 48.345, 48.347, 48.357, 48.363,
8 or 48.365, containing the notice required by s. 48.356 (2).

9 2. That the child has been placed outside his or her home, as described in s.
10 48.365 (1), for 15 of the most recent 22 months, not including any period during which
11 the child was a runaway from the out-of-home placement or was residing in a trial
12 reunification home.

13 3. That a review panel or court has not, in the 22 months prior to the filing of
14 the petition to terminate parental rights, made a finding in a permanency review
15 under s. 48.38 (5) or a permanency hearing under s. 48.38 (5m) that the agency failed
16 to make reasonable efforts to achieve a permanency goal.

17 4. If the child is an Indian child, that continued custody of the Indian child by
18 the Indian child's parent or Indian custodian is likely to result in serious emotional

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1 or physical damage to the Indian child under s. 48.028 (4) (e) 1. and that active efforts
2 under s. 48.028 (4) (e) 2. have been made to prevent the breakup of the Indian child's
3 family and those efforts have proved unsuccessful.

4 **SECTION 2. Initial applicability.**

5 (1) This act first applies to a court order required to contain the notice under
6 s. 48.356 (2) granted on the effective date of this subsection.

7 (END)