



2021 SENATE BILL 595

October 8, 2021 - Introduced by Senators STROEBEL, MARKLEIN and BALLWEG, cosponsored by Representatives DITTRICH, GUNDRUM, PENTERMAN, MURSAU, TUSLER, SNYDER and THIESFELDT. Referred to Committee on Human Services, Children and Families.

- 1 **AN ACT to create** 48.415 (3m) of the statutes; **relating to:** terminating parental
2 rights based on the parent's incarceration.

Analysis by the Legislative Reference Bureau

Under current law, in a proceeding for involuntary termination of parental rights (TPR), the juvenile court must determine whether grounds exist for TPR. This bill creates a new ground for TPR based on parental incarceration, which must be established by proving all of the following:

1. That the child has been adjudged to be in need of protection or services and placed outside the child's home pursuant to one or more court orders containing notice of the grounds for TPR.
2. That the parent is incarcerated at the time of the fact-finding hearing for TPR.
3. That the parent is likely to be incarcerated for a substantial period of the child's minority.

Under the bill, in determining whether the parent is likely to be incarcerated for a substantial period of the child's minority, the court may consider a parent's history of repeated incarceration.

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:

SENATE BILL 595**SECTION 1**

1 **SECTION 1.** 48.415 (3m) of the statutes is created to read:

2 48.415 **(3m)** PARENTAL INCARCERATION. Parental incarceration, which shall be
3 established by proving all of the following:

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

8 (b) That the parent is incarcerated at the time of the fact-finding hearing under
9 s. 48.424.

10 (c) That the parent is likely to continue to be incarcerated for a substantial
11 period of the child's minority. In determining whether the parent is likely to continue
12 to be incarcerated for a substantial period of the child's minority, the court may
13 consider whether the parent has a history of repeated incarceration.

14 **SECTION 2. Nonstatutory provisions.**

15 (1) PARENTAL INCARCERATION. A court assigned to exercise jurisdiction under ch.
16 48 may terminate parental rights to a child who was ordered to be placed outside the
17 home before the effective date of this subsection on the grounds specified under s.
18 48.415 (3m) notwithstanding that the parent was not notified of those grounds under
19 s. 48.356 (2) when that placement was ordered so long as the parent is notified of
20 those grounds under s. 48.356 (2) before the filing of the termination of parental
21 rights petition.

22 **SECTION 3. Initial applicability.**

23 (1) PARENTAL INCARCERATION. This act first applies to a petition for termination
24 of parental rights filed on the effective date of this subsection.

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(END)