

1999 DRAFTING REQUEST

Bill

Received: **05/5/99**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Joe Plouff (608) 266-7056**

By/Representing: **Grant**

This file may be shown to any legislator: **NO**

Drafter: **kahlepj**

May Contact:

Alt. Drafters: **malaigm**

Subject: **Dom. Rel. - cust. and plac.
Children - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prohibiting visitation or physical placement on the basis of solicitation of first degree homicide of child's parent

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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5/19/99 8:30:00 AM
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Not
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State of Wisconsin
1999 - 2000 LEGISLATURE

3036/1
LRB-2628/1
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SOON
(5-5)

1999 BILL

1 AN ACT ^{Sen Conf.} to renumber and amend 48.355 (3), 48.428 (6) and 938.355 (3); to

2 amend 48.207 (1) (a), 48.207 (1) (b), 48.345 (3) (a), 48.345 (3) (b), 48.42 (1m) (b),

3 48.42 (1m) (c), 48.925 (1) (intro.), 767.245 (1), 880.155 (2), 938.207 (1) (a),

4 938.207 (1) (b), 938.34 (3) (a) and 938.34 (3) (b); and to create 48.355 (3) (b),

5 48.357 (4d), 48.42 (1m) (e), 48.428 (6) (b), 48.925 (1m), 767.245 (1m), 767.245

6 (6), 767.247, 767.325 (4m), 880.155 (3m), 880.155 (4m), 880.157, 938.355 (3) (b)

7 and 938.357 (4d) of the statutes; relating to: prohibiting a parent or other

8 person who is convicted for the solicitation to commit the first-degree

9 intentional homicide of a parent of a child from having visitation or physical

10 placement with the child.

Analysis by the Legislative Reference Bureau

Under current law, in a divorce or legal separation that involves a minor child, the court must award legal custody of the child and allocate to the parents physical placement with the child. The court may not deny a parent physical placement unless the court finds that the physical placement would endanger the child's physical, mental or emotional health. In an action affecting the family, the court may

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grant visitation with a minor child to a grandparent, stepparent or person who has had a relationship similar to a parent-child relationship with the child if the court determines that the visitation is in the child's best interest. In a guardianship matter that involves a minor child, the court may grant visitation rights to a grandparent or stepparent of the child if one or both of the child's parents are deceased and the court determines that the visitation is in the child's best interest.

This bill prohibits a court from granting visitation or physical placement rights with a child to a parent of the child or to another person if that parent or other person has been convicted for solicitation to commit the first-degree intentional homicide of a parent of the child. The prohibition applies in any action affecting the family that involves the child and in any guardianship matter that involves the child. Additionally, a court is required to modify an existing physical placement or visitation order by denying physical placement or visitation with a child if the parent or other person is convicted for solicitation to commit the first-degree intentional homicide of the child's other parent. The prohibition on the granting of physical placement or visitation applies regardless of whether the conviction occurred before or occurs after the passage of the bill, and the requirement to modify any physical placement or visitation order applies regardless of when the conviction occurred or occurs and regardless of whether the order exists when the bill is passed or is granted after the passage of the bill. In all of these situations, however, the court may grant visitation or physical placement, or refuse to modify an order that grants visitation or physical placement, if the child wishes to have visitation or physical placement with the parent or other person and is mature enough to make such a decision and if the visitation or physical placement would be in the best interests of the child.

Under current law, the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court) may place a child or a juvenile who is in need of temporary physical custody or who has been adjudged to be delinquent or in need of protection or services in, among other placements, the home of a parent or other relative of the child or, if the placement is for less than 30 days, the home of a guardian of the child. Also, under current law, if the juvenile court places such a child or juvenile outside of his or her home, the juvenile court may set reasonable rules of parental visitation if the juvenile court finds that parental visitation would be in the best interests of the child. In addition, under current law, the juvenile court may issue a temporary restraining order and injunction prohibiting a parent against whom a petition for involuntary termination of parental rights (TPR) has been filed from visitation or contact with the child and may order or prohibit visitation by a birth parent of a child who has been placed in sustaining care following a TPR. Finally, under current law, the juvenile court may grant reasonable visitation rights to a relative, for example, a grandparent, who has maintained a relationship similar to a parent-child relationship with a child who has been adopted by a stepparent or relative.

This bill prohibits a juvenile court from placing a child or juvenile who is in need of temporary physical custody or who has been adjudged to be delinquent or in need of protection or services in the home of a parent, other relative or guardian of the child or juvenile if the parent, other relative or guardian has been convicted for

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solicitation to commit the first-degree intentional homicide of a parent of the child. The bill also requires a juvenile court, when a child or juvenile is placed in the home of a parent by juvenile court order, to change the placement of the child or juvenile to a placement outside of that home if the parent is convicted for solicitation to commit the first-degree intentional homicide of a parent of the child or juvenile.

In addition, the bill prohibits a juvenile court from granting visitation to a parent of a child or juvenile who has been adjudged to be delinquent or in need of protection or services, to a birth parent of a child who has been placed in sustaining care following a TPR or to a relative who has maintained a relationship similar to a parent-child relationship with a child if the parent, birth parent or relative has been convicted for solicitation to commit the first-degree intentional homicide of a parent of the child or juvenile. The bill also requires a juvenile court, when such a parent, birth parent or relative has previously been granted visitation, to issue an order prohibiting any further visitation if the parent is convicted for solicitation to commit the first-degree intentional homicide of a parent of the child or juvenile.

Additionally, the bill requires a juvenile court, on petition, to prohibit a parent against whom a petition for involuntary TPR has been filed from visitation or contact with the child if the parent has been convicted for solicitation to commit the first-degree intentional homicide of the child's other parent.

The prohibition on the juvenile court placing a child or juvenile in the home of a parent, other relative or guardian or granting visitation with a child or juvenile and the requirement that a juvenile court prohibit any visitation or contact with a child or juvenile apply regardless of when the conviction occurs. In all of these situations, however, the juvenile court may grant visitation or placement, or refuse to issue an order changing placement or prohibiting visitation, if the child or juvenile wishes to have the visitation or placement and is mature enough to make such a decision and if the visitation or placement would be in the best interests of the child or juvenile.

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

- 1 SECTION 1. 48.207 (1) (a) of the statutes is amended to read:
- 2 48.207 (1) (a) The home of a parent or guardian, except that a child may not
- 3 be held in the home of a parent or guardian if the parent or guardian has been
- 4 convicted under s. 939.30 for the solicitation to commit the first-degree intentional
- 5 homicide of a parent of the child, and the conviction has not been reversed, set aside
- 6 or vacated, unless the person making the custody decision determines that the child
- 7 desires to be held in the home of the parent or guardian and is sufficiently mature

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1 to make such a decision and that the placement would be in the best interests of the
2 child.

3 **SECTION 2.** 48.207 (1) (b) of the statutes is amended to read:

4 48.207 (1) (b) The home of a relative, except that a child may not be held in the
5 home of a relative if the relative has been convicted under s. 939.30 for the
6 solicitation to commit the first-degree intentional homicide of a parent of the child,
7 and the conviction has not been reversed, set aside or vacated, unless the person
8 making the custody decision determines that the child desires to be held in the home
9 of the relative and is sufficiently mature to make such a decision and that the
10 placement would be in the best interests of the child.

11 **SECTION 3.** 48.345 (3) (a) of the statutes is amended to read:

12 48.345 (3) (a) The home of a parent or other relative of the child, except that
13 the judge may not designate the home of a parent or other relative of the child as the
14 child's placement if the parent or other relative has been convicted under s. 939.30
15 for the solicitation to commit the first-degree intentional homicide of a parent of the
16 child, and the conviction has not been reversed, set aside or vacated, unless the judge
17 determines that the child desires to be placed in the home of the parent or other
18 relative and is sufficiently mature to make such a decision and that the placement
19 would be in the best interests of the child.

20 **SECTION 4.** 48.345 (3) (b) of the statutes is amended to read:

21 48.345 (3) (b) ~~A home which need not be~~ The home of a person who is not
22 required to be licensed if placement is for less than 30 days, except that the judge may
23 not designate the home of a person who is not required to be licensed as the child's
24 placement if the person has been convicted under s. 939.30 for the solicitation to
25 commit the first-degree intentional homicide of a parent of the child, and the

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1 conviction has not been reversed, set aside or vacated, unless the judge determines
2 that the child desires to be placed in that home and is sufficiently mature to make
3 such a decision and that the placement would be in the best interests of the child.

4 **SECTION 5.** 48.355 (3) of the statutes is renumbered 48.355 (3) (a) and amended
5 to read:

6 48.355 (3) (a) If Except as provided in par. (b), if, after a hearing on the issue
7 with due notice to the parent or guardian, the judge court finds that it would be in
8 the best interest of the child, the judge court may set reasonable rules of parental
9 visitation.

10 **SECTION 6.** 48.355 (3) (b) of the statutes is created to read:

11 48.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant
12 visitation under par. (a) to a parent of a child if the parent has been convicted under
13 s. 939.30 for the solicitation to commit the first-degree intentional homicide of the
14 child's other parent, and the conviction has not been reversed, set aside or vacated.

15 1m. Except as provided in subd. 2., if a parent who is granted visitation rights
16 with a child under par. (a) is convicted under s. 939.30 for the solicitation to commit
17 the first-degree intentional homicide of the child's other parent, and the conviction
18 has not been reversed, set aside or vacated, the court shall issue an order prohibiting
19 the parent from having visitation with the child on petition of the child, the guardian
20 or legal custodian of the child, a person or agency bound by the dispositional order
21 or the district attorney or corporation counsel of the county in which the dispositional
22 order was entered, or on the court's own motion, and on notice to the parent.

23 2. Subdivisions 1. and 1m. do not apply if the court determines that the child
24 desires to have visitation with the parent and is sufficiently mature to make such a
25 decision and that the visitation would be in the best interests of the child.

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1 **SECTION 7.** 48.357 (4d) of the statutes is created to read:

2 48.357 (4d) (a) Except as provided in par. (b), the court may not change a child's
3 placement to a placement in the home of a person who has been convicted under s.
4 939.30 for the solicitation to commit the first-degree intentional homicide of a parent
5 of the child, if the conviction has not been reversed, set aside or vacated.

6 (am) Except as provided in par (b), if a parent in whose home a child is placed
7 is convicted under s. 939.30 for the solicitation to commit the first-degree intentional
8 homicide of the child's other parent, and the conviction has not been reversed, set
9 aside or vacated, the court shall change the child's placement to a placement out of
10 the home of the parent on petition of the child, the guardian or legal custodian of the
11 child, a person or agency bound by the dispositional order or the district attorney or
12 corporation counsel of the county in which the dispositional order was entered, or on
13 the court's own motion, and on notice to the parent.

14 (b) Paragraphs (a) and (am) do not apply if the court determines that the child
15 desires to be placed in the home of the person and is sufficiently mature to make such
16 a decision and that the placement would be in the best interests of the child.

17 **SECTION 8.** 48.42 (1m) (b) of the statutes is amended to read:

18 48.42 (1m) (b) The Subject to par. (e), the court may issue the temporary order
19 ex parte or may refuse to issue the temporary order and hold a hearing on whether
20 to issue an injunction. The temporary order is in effect until a hearing is held on the
21 issuance of an injunction. The court shall hold a hearing on the issuance of an
22 injunction on or before the date of the hearing on the petition to terminate parental
23 rights under s. 48.422 (1).

24 **SECTION 9.** 48.42 (1m) (c) of the statutes is amended to read:

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1 48.42 (1m) (c) Notwithstanding any other order under s. 48.355 (3), the court,
2 subject to par. (e), may grant an injunction prohibiting the respondent from visiting
3 or contacting the child if the court determines that the prohibition would be in the
4 best interests of the child. An injunction under this subsection is effective according
5 to its terms but may not remain in effect beyond the date the court dismisses the
6 petition for termination of parental rights under s. 48.427 (2) or issues an order
7 terminating parental rights under s. 48.427 (3).

8 **SECTION 10.** 48.42 (1m) (e) of the statutes is created to read:

9 48.42 (1m) (e) 1. Except as provided in subd. 2., the court shall issue a
10 temporary order and injunction prohibiting a parent of a child from visitation or
11 contact with the child if the parent has been convicted under s. 939.30 for the
12 solicitation to commit the first-degree intentional homicide of the child's other
13 parent, and the conviction has not been reversed, set aside or vacated.

14 2. Subdivision 1. does not apply if the court determines that the child desires
15 to have visitation or contact with the parent and is sufficiently mature to make such
16 a decision and that the visitation or contact would be in the best interests of the child.

17 **SECTION 11.** 48.428 (6) of the statutes is renumbered 48.428 (6) (a) and
18 amended to read:

19 48.428 (6) (a) The Except as provided in par. (b), the court may order or prohibit
20 visitation by a birth parent of a child placed in sustaining care.

21 **SECTION 12.** 48.428 (6) (b) of the statutes is created to read:

22 48.428 (6) (b) 1. Except as provided in subd. 2., the court may not grant
23 visitation under par. (a) to a birth parent of a child who has been placed in sustaining
24 care if the birth parent has been convicted under s. 939.30 for the solicitation to

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1 commit the first-degree intentional homicide of the child's other birth parent, and
2 the conviction has not been reversed, set aside or vacated.

3 1m. Except as provided in subd. 2., if a birth parent who is granted visitation
4 rights with a child under par. (a) is convicted under s. 939.30 for the solicitation to
5 commit the first-degree intentional homicide of the child's other birth parent, and
6 the conviction has not been reversed, set aside or vacated, the court shall issue an
7 order prohibiting the birth parent from having visitation with the child on petition
8 of the child, the guardian or legal custodian of the child, or the district attorney or
9 corporation counsel of the county in which the dispositional order was entered, or on
10 the court's own motion, and on notice to the birth parent.

11 2. Subdivisions 1. and 1m. do not apply if the court determines that the child
12 desires to have visitation with the birth parent and is sufficiently mature to make
13 such a decision and that the visitation would be in the best interests of the child.

14 **SECTION 13.** 48.925 (1) (intro.) of the statutes is amended to read:

15 48.925 (1) (intro.) Upon petition by a relative who has maintained a
16 relationship similar to a parent-child relationship with a child who has been adopted
17 by a stepparent or relative, the court, subject to subs. (1m) and (2), may grant
18 reasonable visitation rights to that person if the petitioner has maintained such a
19 relationship within 2 years prior to the filing of the petition, if the adoptive parent
20 or parents, or, if a birth parent is the spouse of an adoptive parent, the adoptive
21 parent and birth parent, have notice of the hearing and if the court determines all
22 of the following:

23 **SECTION 14.** 48.925 (1m) of the statutes is created to read:

24 48.925 (1m) (a) Except as provided in par. (b), the court may not grant
25 visitation rights under sub. (1) to a relative who has maintained a relationship

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1 similar to a parent-child relationship with a child if the relative has been convicted
2 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
3 of a parent of the child, and the conviction has not been reversed, set aside or vacated.

4 (am) Except as provided in par. (b), if a relative who is granted visitation rights
5 with a child under sub. (1) is convicted under s. 939.30 for the solicitation to commit
6 the first-degree intentional homicide of a parent of the child, and the conviction has
7 not been reversed, set aside or vacated, the court shall issue an order prohibiting the
8 relative from having visitation with the child on petition of the child or the parent,
9 guardian or legal custodian of the child, or on the court's own motion, and on notice
10 to the relative.

11 (b) Paragraphs (a) and (am) do not apply if the court determines that the child
12 desires to have visitation with the relative and is sufficiently mature to make such
13 a decision and that the visitation would be in the best interests of the child.

14 **SECTION 15.** 767.245 (1) of the statutes is amended to read:

15 767.245 (1) Except as provided in ~~sub.~~ subs. (1m) and (2m), upon petition by
16 a grandparent, greatgrandparent, stepparent or person who has maintained a
17 relationship similar to a parent-child relationship with the child, the court may
18 grant reasonable visitation rights to that person if the parents have notice of the
19 hearing and if the court determines that visitation is in the best interest of the child.

20 **SECTION 16.** 767.245 (1m) of the statutes is created to read:

21 767.245 (1m) (a) Except as provided in par. (b), the court may not grant
22 visitation rights under sub. (1) to a person who has been convicted under s. 939.30
23 for the solicitation to commit the first-degree intentional homicide of a parent of the
24 child, and the conviction has not been reversed, set aside or vacated.

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1 (b) Paragraph (a) does not apply if the court determines that the child desires
2 to have visitation with the person and is sufficiently mature to make such a decision
3 and that the visitation would be in the best interests of the child.

4 **SECTION 16m.** 767.245 (6) of the statutes is created to read:

5 767.245 (6) (a) If a person granted visitation rights with a child under this
6 section is convicted under s. 939.30 for the solicitation to commit the first-degree
7 intentional homicide of a parent of the child, and the conviction has not been
8 reversed, set aside or vacated, the court shall modify the visitation order by denying
9 visitation with the child upon petition, motion or order to show cause by a parent or
10 guardian of the child, or upon the court's own motion, and upon notice to the person
11 granted visitation rights.

12 (b) Paragraph (a) does not apply if the court determines that the child desires
13 to have visitation with the person and is sufficiently mature to make such a decision
14 and that the visitation would be in the best interests of the child.

15 **SECTION 17.** 767.247 of the statutes is created to read:

16 **767.247 Prohibiting visitation or physical placement if a parent kills**
17 **other parent.** (1) Notwithstanding ss. 767.23 (1) (am), 767.24 (1), (4) and (5),
18 767.51 (3) and 767.62 (4) (a) and except as provided in sub. (2), in an action under this
19 chapter that affects a minor child, a court or family court commissioner may not
20 grant to the child's parent visitation or physical placement rights with the child if the
21 parent has been convicted under s. 939.30 for the solicitation to commit the
22 first-degree intentional homicide of the child's other parent, and the conviction has
23 not been reversed, set aside or vacated.

24 (2) Subsection (1) does not apply if the court or family court commissioner
25 determines that the child desires to have visitation or periods of physical placement

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1 with the parent and is sufficiently mature to make such a decision and that the
2 visitation or periods of physical placement would be in the best interests of the child.

3 **SECTION 18.** 767.325 (4m) of the statutes is created to read:

4 **767.325 (4m) DENIAL OF PHYSICAL PLACEMENT FOR KILLING OTHER PARENT.** (a)
5 Notwithstanding subs. (1) to (4), upon petition, motion or order to show cause by a
6 party or on its own motion, a court shall modify a physical placement order by
7 denying a parent physical placement with a child if the parent has been convicted
8 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
9 of the child's other parent, and the conviction has not been reversed, set aside or
10 vacated.

11 (b) Paragraph (a) does not apply if the court determines that the child desires
12 to have physical placement with the parent and is sufficiently mature to make such
13 a decision and that physical placement with the parent would be in the best interests
14 of the child.

15 **SECTION 19.** 880.155 (2) of the statutes is amended to read:

16 **880.155 (2)** If one or both parents of a minor child are deceased and the child
17 is in the custody of the surviving parent or any other person, a grandparent or
18 stepparent of the child may petition for visitation privileges with respect to the child,
19 whether or not the person with custody is married. The grandparent or stepparent
20 may file the petition in a guardianship or temporary guardianship proceeding under
21 this chapter that affects the minor child or may file the petition to commence an
22 independent action under this chapter. The Except as provided in sub. (3m), the
23 court may grant reasonable visitation privileges to the grandparent or stepparent if
24 the surviving parent or other person who has custody of the child has notice of the
25 hearing and if the court determines that visitation is in the best interest of the child.

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1 **SECTION 20.** 880.155 (3m) of the statutes is created to read:

2 880.155 (3m) (a) Except as provided in par. (b), the court may not grant
3 visitation privileges to a grandparent or stepparent under this section if the
4 grandparent or stepparent has been convicted under s. 939.30 for the solicitation to
5 commit the first-degree intentional homicide of a parent of the child, and the
6 conviction has not been reversed, set aside or vacated.

7 (b) Paragraph (a) does not apply if the court determines that the child desires
8 to have visitation with the grandparent or stepparent and is sufficiently mature to
9 make such a decision and that the visitation would be in the best interests of the
10 child.

11 ^{# auto number}
~~SECTION 20m.~~ 880.155 (4m) of the statutes is created to read:

12 880.155 (4m) (a) If a grandparent or stepparent granted visitation privileges
13 with respect to a child under this section is convicted under s. 939.30 for the
14 solicitation to commit the first-degree intentional homicide of a parent of the child,
15 and the conviction has not been reversed, set aside or vacated, the court shall modify
16 the visitation order by denying visitation with the child upon petition, motion or
17 order to show cause by a person having custody of the child, or upon the court's own
18 motion, and upon notice to the grandparent or stepparent granted visitation
19 privileges.

20 (b) Paragraph (a) does not apply if the court determines that the child desires
21 to have visitation with the grandparent or stepparent and is sufficiently mature to
22 make such a decision and that the visitation would be in the best interests of the
23 child.

24 **SECTION 21.** 880.157 of the statutes is created to read:

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1 **880.157 Prohibiting visitation or physical placement if a parent kills**
2 **other parent.** (1) Except as provided in sub. (2), in an action under this chapter
3 that affects a minor child, a court may not grant to a parent of the child visitation or
4 physical placement rights with the child if the parent has been convicted under s.
5 939.30 for the solicitation to commit the first-degree intentional homicide of the
6 child's other parent, and the conviction has not been reversed, set aside or vacated.

7 (2) Subsection (1) does not apply if the court determines that the child desires
8 to have visitation or periods of physical placement with the parent and is sufficiently
9 mature to make such a decision and that visitation or periods of physical placement
10 would be in the best interests of the child.

11 **SECTION 22.** 938.207 (1) (a) of the statutes is amended to read:

12 938.207 (1) (a) The home of a parent or guardian, except that a juvenile may
13 not be held in the home of a parent or guardian if the parent or guardian has been
14 convicted under s. 939.30 for the solicitation to commit the first-degree intentional
15 homicide of a parent of the juvenile, and the conviction has not been reversed, set
16 aside or vacated, unless the person making the custody decision determines that the
17 juvenile desires to be held in the home of the parent or guardian and is sufficiently
18 mature to make such a decision and that the placement would be in the best interests
19 of the juvenile.

20 **SECTION 23.** 938.207 (1) (b) of the statutes is amended to read:

21 938.207 (1) (b) The home of a relative, except that a juvenile may not be held
22 in the home of a relative if the relative has been convicted under s. 939.30 for the
23 solicitation to commit the first-degree intentional homicide of a parent of the
24 juvenile, and the conviction has not been reversed, set aside or vacated, unless the
25 person making the custody decision determines that the juvenile desires to be held

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1 in the home of the relative and is sufficiently mature to make such a decision and that
2 the placement would be in the best interests of the juvenile.

3 **SECTION 24.** 938.34 (3) (a) of the statutes is amended to read:

4 938.34 (3) (a) The home of a parent or other relative of the juvenile, except that
5 the court may not designate the home of a parent or other relative of the juvenile as
6 the juvenile's placement if the parent or other relative has been convicted under s.
7 939.30 for the solicitation to commit the first-degree intentional homicide of a parent
8 of the juvenile, and the conviction has not been reversed, set aside or vacated, unless
9 the court determines that the juvenile desires to be placed in the home of the parent
10 or other relative and is sufficiently mature to make such a decision and that the
11 placement would be in the best interests of the juvenile.

12 **SECTION 25.** 938.34 (3) (b) of the statutes is amended to read:

13 938.34 (3) (b) ~~A home which need not be~~ The home of a person who is not
14 required to be licensed if placement is for less than 30 days, except that the judge may
15 not designate the name of a person who is not required to be licensed as the juvenile's
16 placement if the person has been convicted under s. 939.30 for the solicitation to
17 commit the first-degree intentional homicide of a parent of the juvenile, and the
18 conviction has not been reversed, set aside or vacated, unless the judge determines
19 that the juvenile desires to be placed in that home and is sufficiently mature to make
20 such a decision and that the placement would be in the best interests of the juvenile.

21 **SECTION 26.** 938.355 (3) of the statutes is renumbered 938.355 (3) (a) and
22 amended to read:

23 938.355 (3) (a) ~~If~~ Except as provided in par. (b), if, after a hearing on the issue
24 with due notice to the parent or guardian, the court finds that it would be in the best
25 interest of the juvenile, the court may set reasonable rules of parental visitation.

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1 **SECTION 27.** 938.355 (3) (b) of the statutes is created to read:

2 938.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant
3 visitation under par. (a) to a parent of a juvenile if the parent has been convicted
4 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
5 of the juvenile's other parent, and the conviction has not been reversed, set aside or
6 vacated.

7 1m. Except as provided in subd. 2., if a parent who is granted visitation rights
8 with a juvenile under par. (a) is convicted under s. 939.30 for the solicitation to
9 commit the first-degree intentional homicide of the juvenile's other parent, and the
10 conviction has not been reversed, set aside or vacated, the court shall issue an order
11 prohibiting the parent from having visitation with the juvenile on petition of the
12 juvenile, the guardian or legal custodian of the juvenile, a person or agency bound
13 by the dispositional order or the district attorney or corporation counsel of the county
14 in which the dispositional order was entered, or on the court's own motion, and on
15 notice to the parent.

16 2. Subdivisions 1. and 1m. do not apply if the court determines that the juvenile
17 desires to have visitation with the parent and is sufficiently mature to make such a
18 decision and that the visitation would be in the best interests of the juvenile.

19 **SECTION 28.** 938.357 (4d) of the statutes is created to read:

20 938.357 (4d) (a) Except as provided in par. (b), the court may not change a
21 juvenile's placement to a placement in the home of a person who has been convicted
22 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
23 of a parent of the juvenile, if the conviction has not been reversed, set aside or
24 vacated.

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1 (am) Except as provided in par (b), if a parent in whose home a juvenile is placed
2 is convicted under s. 939.30 for the solicitation to commit the first-degree intentional
3 homicide of the juvenile's other parent, and the conviction has not been reversed, set
4 aside or vacated, the court shall change the juvenile's placement to a placement out
5 of the home of the parent on petition of the juvenile, the guardian or legal custodian
6 of the juvenile, a person or agency bound by the dispositional order or the district
7 attorney or corporation counsel of the county in which the dispositional order was
8 entered, or on the court's own motion, and on notice to the parent.

9 (b) Paragraphs (a) and (am) do not apply if the court determines that the
10 juvenile desires to be placed in the home of the person and is sufficiently mature to
11 make such a decision and that the placement would be in the best interests of the
12 juvenile.

SECTION 29. Initial applicability.

13
14 (1) This act first applies to orders for visitation or physical placement, and to
15 orders modifying or revising visitation or physical placement orders, that are
16 granted on the effective date of this subsection; to petitions to restrain and enjoin
17 visitation and contact with a child that are filed on the effective date of this
18 subsection; and to orders of the juvenile court placing a child in or removing a child
19 from the home of a parent, guardian or relative or granting or prohibiting parental
20 visitation granted on the effective date of this subsection; regardless of when the
21 conviction for solicitation to commit first-degree intentional homicide occurred.

22 (END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 5/6/99

To: Representative Plouff

Relating to LRB drafting number: LRB-3036

Topic

Prohibiting visitation or physical placement on the basis of solicitation of first degree homicide of child's parent

Subject(s)

Dom. Rel. - cust. and plac., Children - miscellaneous

1. **JACKET** the draft for introduction

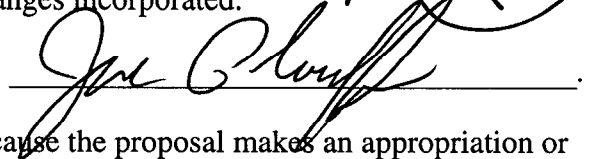


in the **Senate** _____ or the **Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction



If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.



If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Pamela J. Kahler, Senior Legislative Attorney
Telephone: (608) 266-2682



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1999 BILL

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1 **AN ACT to renumber and amend** 48.355 (3), 48.428 (6) and 938.355 (3); **to**
2 **amend** 48.207 (1) (a), 48.207 (1) (b), 48.345 (3) (a), 48.345 (3) (b), 48.42 (1m) (b),
3 48.42 (1m) (c), 48.925 (1) (intro.), 767.245 (1), 880.155 (2), 938.207 (1) (a),
4 938.207 (1) (b), 938.34 (3) (a) and 938.34 (3) (b); and **to create** 48.355 (3) (b),
5 48.357 (4d), 48.42 (1m) (e), 48.428 (6) (b), 48.925 (1m), 767.245 (1m), 767.245
6 (6), 767.247, 767.325 (4m), 880.155 (3m), 880.155 (4m), 880.157, 938.355 (3) (b)
7 and 938.357 (4d) of the statutes; **relating to:** prohibiting a parent or other
8 person who is convicted for the solicitation to commit the first-degree
9 intentional homicide of a parent of a child from having visitation or physical
10 placement with the child.

Analysis by the Legislative Reference Bureau

Under current law, in a divorce or legal separation that involves a minor child, the court must award legal custody of the child and allocate to the parents physical placement with the child. The court may not deny a parent physical placement unless the court finds that the physical placement would endanger the child's physical, mental or emotional health. In an action affecting the family, the court may

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grant visitation with a minor child to a grandparent, stepparent or person who has had a relationship similar to a parent-child relationship with the child if the court determines that the visitation is in the child's best interest. In a guardianship matter that involves a minor child, the court may grant visitation rights to a grandparent or stepparent of the child if one or both of the child's parents are deceased and the court determines that the visitation is in the child's best interest.

This bill prohibits a court from granting visitation or physical placement rights with a child to a parent of the child or to another person if that parent or other person has been convicted for solicitation to commit the first-degree intentional homicide of a parent of the child. The prohibition applies in any action affecting the family that involves the child and in any guardianship matter that involves the child. Additionally, a court is required to modify an existing physical placement or visitation order by denying physical placement or visitation with a child if the parent or other person is convicted for solicitation to commit the first-degree intentional homicide of the child's other parent. The prohibition on the granting of physical placement or visitation applies regardless of whether the conviction occurred before or occurs after the passage of the bill, and the requirement to modify any physical placement or visitation order applies regardless of when the conviction occurred or occurs and regardless of whether the order exists when the bill is passed or is granted after the passage of the bill. In all of these situations, however, the court may grant visitation or physical placement, or refuse to modify an order that grants visitation or physical placement, if the child wishes to have visitation or physical placement with the parent or other person and is mature enough to make such a decision and if the visitation or physical placement would be in the best interests of the child.

Under current law, the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court) may place a child or a juvenile who is in need of temporary physical custody or who has been adjudged to be delinquent or in need of protection or services in, among other placements, the home of a parent or other relative of the child or, if the placement is for less than 30 days, the home of a guardian of the child. Also, under current law, if the juvenile court places such a child or juvenile outside of his or her home, the juvenile court may set reasonable rules of parental visitation if the juvenile court finds that parental visitation would be in the best interests of the child. In addition, under current law, the juvenile court may issue a temporary restraining order and injunction prohibiting a parent against whom a petition for involuntary termination of parental rights (TPR) has been filed from visitation or contact with the child and may order or prohibit visitation by a birth parent of a child who has been placed in sustaining care following a TPR. Finally, under current law, the juvenile court may grant reasonable visitation rights to a relative, for example, a grandparent, who has maintained a relationship similar to a parent-child relationship with a child who has been adopted by a stepparent or relative.

This bill prohibits a juvenile court from placing a child or juvenile who is in need of temporary physical custody or who has been adjudged to be delinquent or in need of protection or services in the home of a parent, other relative or guardian of the child or juvenile if the parent, other relative or guardian has been convicted for

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solicitation to commit the first-degree intentional homicide of a parent of the child. The bill also requires a juvenile court, when a child or juvenile is placed in the home of a parent by juvenile court order, to change the placement of the child or juvenile to a placement outside of that home if the parent is convicted for solicitation to commit the first-degree intentional homicide of a parent of the child or juvenile.

In addition, the bill prohibits a juvenile court from granting visitation to a parent of a child or juvenile who has been adjudged to be delinquent or in need of protection or services, to a birth parent of a child who has been placed in sustaining care following a TPR or to a relative who has maintained a relationship similar to a parent-child relationship with a child if the parent, birth parent or relative has been convicted for solicitation to commit the first-degree intentional homicide of a parent of the child or juvenile. The bill also requires a juvenile court, when such a parent, birth parent or relative has previously been granted visitation, to issue an order prohibiting any further visitation if the parent is convicted for solicitation to commit the first-degree intentional homicide of a parent of the child or juvenile.

Additionally, the bill requires a juvenile court, on petition, to prohibit a parent against whom a petition for involuntary TPR has been filed from visitation or contact with the child if the parent has been convicted for solicitation to commit the first-degree intentional homicide of the child's other parent.

The prohibition on the juvenile court placing a child or juvenile in the home of a parent, other relative or guardian or granting visitation with a child or juvenile and the requirement that a juvenile court prohibit any visitation or contact with a child or juvenile apply regardless of when the conviction occurs. ~~In all of these situations, however, the juvenile court may grant visitation or placement, or refuse to issue an order changing placement or prohibiting visitation, if the child or juvenile wishes to have the visitation or placement and is mature enough to make such a decision and if the visitation or placement would be in the best interests of the child or juvenile.~~

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

1 **SECTION 1.** 48.207 (1) (a) of the statutes is amended to read:

2 48.207 (1) (a) The home of a parent or guardian, except that a child may not
3 be held in the home of a parent or guardian if the parent or guardian has been
4 convicted under s. 939.30 for the solicitation to commit the first-degree intentional
5 homicide of a parent of the child ^{set} and the conviction has not been reversed, set aside
6 or vacated, unless the person making the custody decision determines that the child
7 desires to be held in the home of the parent or guardian and is sufficiently mature

(Keep scored comma)

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1 ~~to make such a decision and that the placement would be in the best interests of the~~
2 ~~child.~~

3 SECTION 2. 48.207 (1) (b) of the statutes is amended to read:

4 48.207 (1) (b) The home of a relative, except that a child may not be held in the
5 home of a relative if the relative has been convicted under s. 939.30 for the
6 solicitation to commit the first-degree intentional homicide of a parent of the child
7 and the conviction has not been reversed, set aside or vacated, unless the person
8 making the custody decision determines that the child desires to be held in the home
9 of the relative and is sufficiently mature to make such a decision and that the
10 placement would be in the best interests of the child.

Keep scored comma

11 SECTION 3. 48.345 (3) (a) of the statutes is amended to read:

12 48.345 (3) (a) The home of a parent or other relative of the child, except that
13 the judge may not designate the home of a parent or other relative of the child as the
14 child's placement if the parent or other relative has been convicted under s. 939.30
15 for the solicitation to commit the first-degree intentional homicide of a parent of the
16 child, and the conviction has not been reversed, set aside or vacated, unless the judge
17 determines that the child desires to be placed in the home of the parent or other
18 relative and is sufficiently mature to make such a decision and that the placement
19 would be in the best interests of the child.

Keep scored comma

20 SECTION 4. 48.345 (3) (b) of the statutes is amended to read:

21 48.345 (3) (b) ~~A home which need not be~~ The home of a person who is not
22 required to be licensed if placement is for less than 30 days, except that the judge may
23 not designate the home of a person who is not required to be licensed as the child's
24 placement if the person has been convicted under s. 939.30 for the solicitation to
25 commit the first-degree intentional homicide of a parent of the child, and the

Keep scored comma

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① ~~conviction has not been reversed, set aside or vacated, unless the judge determines~~
 ② ~~that the child desires to be placed in that home and is sufficiently mature to make~~
 ③ ~~such a decision and that the placement would be in the best interests of the child.~~

4 **SECTION 5.** 48.355 (3) of the statutes is renumbered 48.355 (3) (a) and amended
 5 to read:

6 48.355 (3) (a) ~~If~~ Except as provided in par. (b), if, after a hearing on the issue
 7 with due notice to the parent or guardian, the judge court finds that it would be in
 8 the best interest of the child, the judge court may set reasonable rules of parental
 9 visitation.

10 **SECTION 6.** 48.355 (3) (b) of the statutes is created to read:

11 48.355 (3) (b) 1. ~~Except as provided in subd. 2,~~ ^{The} ~~the~~ court may not grant
 12 visitation under par. (a) to a parent of a child if the parent has been convicted under
 13 s. 939.30 for the solicitation to commit the first-degree intentional homicide of the
 14 child's other parent, and the conviction has not been reversed, set aside or vacated.

15 ~~2.~~ [¶] ~~2.~~ ^{3, 4, 5} ~~1m. Except as provided in subd. 2,~~ a parent who is granted visitation rights
 16 with a child under par. (a) is convicted under s. 939.30 for the solicitation to commit
 17 the first-degree intentional homicide of the child's other parent, and the conviction
 18 has not been reversed, set aside or vacated, the court shall issue an order prohibiting
 19 the parent from having visitation with the child on petition of the child, the guardian
 20 or legal custodian of the child, a person or agency bound by the dispositional order
 21 or the district attorney or corporation counsel of the county in which the dispositional
 22 order was entered, or on the court's own motion, and on notice to the parent.

23 ~~2. Subdivisions 1. and 1m. do not apply if the court determines that the child~~
 24 ~~desires to have visitation with the parent and is sufficiently mature to make such a~~
 25 ~~decision and that the visitation would be in the best interests of the child.~~

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1 **SECTION 7.** 48.357 (4d) of the statutes is created to read:

2 48.357 (4d) (a) ~~Except as provided in par. (b),~~ the court may not change a child's
3 placement to a placement in the home of a person who has been convicted under s.
4 939.30 for the solicitation to commit the first-degree intentional homicide of a parent
5 of the child, if the conviction has not been reversed, set aside or vacated.

6 ~~(am)~~ ~~Except as provided in par. (b),~~ if a parent in whose home a child is placed
7 is convicted under s. 939.30 for the solicitation to commit the first-degree intentional
8 homicide of the child's other parent, and the conviction has not been reversed, set
9 aside or vacated, the court shall change the child's placement to a placement out of
10 the home of the parent on petition of the child, the guardian or legal custodian of the
11 child, a person or agency bound by the dispositional order or the district attorney or
12 corporation counsel of the county in which the dispositional order was entered, or on
13 the court's own motion, and on notice to the parent.

14 ~~(b) Paragraphs (a) and (am) do not apply if the court determines that the child~~
15 ~~desires to be placed in the home of the person and is sufficiently mature to make such~~
16 ~~a decision and that the placement would be in the best interests of the child.~~

17 **SECTION 8.** 48.42 (1m) (b) of the statutes is amended to read:

18 48.42 (1m) (b) ~~The~~ Subject to par. (e), the court may issue the temporary order
19 ex parte or may refuse to issue the temporary order and hold a hearing on whether
20 to issue an injunction. The temporary order is in effect until a hearing is held on the
21 issuance of an injunction. The court shall hold a hearing on the issuance of an
22 injunction on or before the date of the hearing on the petition to terminate parental
23 rights under s. 48.422 (1).

24 **SECTION 9.** 48.42 (1m) (c) of the statutes is amended to read:

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1 48.42 (1m) (c) Notwithstanding any other order under s. 48.355 (3), the court,
2 subject to par. (e), may grant an injunction prohibiting the respondent from visiting
3 or contacting the child if the court determines that the prohibition would be in the
4 best interests of the child. An injunction under this subsection is effective according
5 to its terms but may not remain in effect beyond the date the court dismisses the
6 petition for termination of parental rights under s. 48.427 (2) or issues an order
7 terminating parental rights under s. 48.427 (3).

8 **SECTION 10.** 48.42 (1m) (e) of the statutes is created to read: ^{The}

9 48.42 (1m) (e) 1. ~~Except as provided in subd. 2., the~~ court shall issue a
10 temporary order and injunction prohibiting a parent of a child from visitation or
11 contact with the child if the parent has been convicted under s. 939.30 for the
12 solicitation to commit the first-degree intentional homicide of the child's other
13 parent, and the conviction has not been reversed, set aside or vacated.

14 2. ~~Subdivision 1. does not apply if the court determines that the child desires~~
15 ~~to have visitation or contact with the parent and is sufficiently mature to make such~~
16 ~~a decision and that the visitation or contact would be in the best interests of the child.~~

17 **SECTION 11.** 48.428 (6) of the statutes is renumbered 48.428 (6) (a) and
18 amended to read:

19 48.428 (6) (a) ~~The~~ Except as provided in par. (b), the court may order or prohibit
20 visitation by a birth parent of a child placed in sustaining care.

21 **SECTION 12.** 48.428 (6) (b) of the statutes is created to read: ^{The}

22 48.428 (6) (b) 1. ~~Except as provided in subd. 2., the~~ court may not grant
23 visitation under par. (a) to a birth parent of a child who has been placed in sustaining
24 care if the birth parent has been convicted under s. 939.30 for the solicitation to

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PR 2. If

1 commit the first-degree intentional homicide of the child's other birth parent, and
2 the conviction has not been reversed, set aside or vacated.

3 ~~1m. Except as provided in subd. 2,~~ if a birth parent who is granted visitation
4 rights with a child under par. (a) is convicted under s. 939.30 for the solicitation to
5 commit the first-degree intentional homicide of the child's other birth parent, and
6 the conviction has not been reversed, set aside or vacated, the court shall issue an
7 order prohibiting the birth parent from having visitation with the child on petition
8 of the child, the guardian or legal custodian of the child, or the district attorney or
9 corporation counsel of the county in which the dispositional order was entered, or on
10 the court's own motion, and on notice to the birth parent.

11 ~~2. Subdivisions 1. and 1m. do not apply if the court determines that the child~~
12 ~~desires to have visitation with the birth parent and is sufficiently mature to make~~
13 ~~such a decision and that the visitation would be in the best interests of the child.~~

14 **SECTION 13.** 48.925 (1) (intro.) of the statutes is amended to read:

15 48.925 (1) (intro.) Upon petition by a relative who has maintained a
16 relationship similar to a parent-child relationship with a child who has been adopted
17 by a stepparent or relative, the court, subject to subs. (1m) and (2), may grant
18 reasonable visitation rights to that person if the petitioner has maintained such a
19 relationship within 2 years prior to the filing of the petition, if the adoptive parent
20 or parents, or, if a birth parent is the spouse of an adoptive parent, the adoptive
21 parent and birth parent, have notice of the hearing and if the court determines all
22 of the following:

23 **SECTION 14.** 48.925 (1m) of the statutes is created to read:

24 48.925 (1m) (a) ~~Except as provided in par. (b),~~ ^{The} court may not grant
25 visitation rights under sub. (1) to a relative who has maintained a relationship

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- 9 -
P (b) If

1 similar to a parent-child relationship with a child if the relative has been convicted
2 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
3 of a parent of the child, and the conviction has not been reversed, set aside or vacated.

4 ~~(am) Except as provided in par. (b),~~ if a relative who is granted visitation rights
5 with a child under sub. (1) is convicted under s. 939.30 for the solicitation to commit
6 the first-degree intentional homicide of a parent of the child, and the conviction has
7 not been reversed, set aside or vacated, the court shall issue an order prohibiting the
8 relative from having visitation with the child on petition of the child or the parent,
9 guardian or legal custodian of the child, or on the court's own motion, and on notice
10 to the relative.

11 ~~(b) Paragraphs (a) and (am) do not apply if the court determines that the child
12 desires to have visitation with the relative and is sufficiently mature to make such
13 a decision and that the visitation would be in the best interests of the child.~~

14 **SECTION 15.** 767.245 (1) of the statutes is amended to read:

15 767.245 (1) Except as provided in sub. subs. (1m) and (2m), upon petition by
16 a grandparent, greatgrandparent, stepparent or person who has maintained a
17 relationship similar to a parent-child relationship with the child, the court may
18 grant reasonable visitation rights to that person if the parents have notice of the
19 hearing and if the court determines that visitation is in the best interest of the child.

20 **SECTION 16.** 767.245 (1m) of the statutes is created to read:

21 767.245 (1m) ~~Except as provided in par. (b),~~ the court may not grant
22 visitation rights under sub. (1) to a person who has been convicted under s. 939.30
23 for the solicitation to commit the first-degree intentional homicide of a parent of the
24 child, and the conviction has not been reversed, set aside or vacated.

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1 (b) Paragraph (a) does not apply if the court determines that the child desires
2 to have visitation with the person and is sufficiently mature to make such a decision
3 and that the visitation would be in the best interests of the child.

4 SECTION 17. 767.245 (6) of the statutes is created to read:

5 767.245 (6) ~~It~~ If a person granted visitation rights with a child under this
6 section is convicted under s. 939.30 for the solicitation to commit the first-degree
7 intentional homicide of a parent of the child, and the conviction has not been
8 reversed, set aside or vacated, the court shall modify the visitation order by denying
9 visitation with the child upon petition, motion or order to show cause by a parent or
10 guardian of the child, or upon the court's own motion, and upon notice to the person
11 granted visitation rights.

12 (b) Paragraph (a) does not apply if the court determines that the child desires
13 to have visitation with the person and is sufficiently mature to make such a decision
14 and that the visitation would be in the best interests of the child.

15 SECTION 18. 767.247 of the statutes is created to read:

16 **767.247 Prohibiting visitation or physical placement if a parent kills**
17 **other parent.** ~~It~~ Notwithstanding ss. 767.23 (1) (am), 767.24 (1), (4) and (5),
18 767.51 (3) and 767.62 (4) (a) ~~and except as provided in sub. (2),~~ in an action under this
19 chapter that affects a minor child, a court or family court commissioner may not
20 grant to the child's parent visitation or physical placement rights with the child if the
21 parent has been convicted under s. 939.30 for the solicitation to commit the
22 first-degree intentional homicide of the child's other parent, and the conviction has
23 not been reversed, set aside or vacated.

24 (2) Subsection (1) does not apply if the court or family court commissioner
25 determines that the child desires to have visitation or periods of physical placement

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1 with the parent and is sufficiently mature to make such a decision and that the
2 visitation or periods of physical placement would be in the best interests of the child.

3 SECTION 19. 767.325 (4m) of the statutes is created to read:

4 767.325 (4m) DENIAL OF PHYSICAL PLACEMENT FOR KILLING OTHER PARENT. ~~W/S~~

5 Notwithstanding subs. (1) to (4), upon petition, motion or order to show cause by a
6 party or on its own motion, a court shall modify a physical placement order by
7 denying a parent physical placement with a child if the parent has been convicted
8 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
9 of the child's other parent, and the conviction has not been reversed, set aside or
10 vacated.

11 (b) Paragraph (a) does not apply if the court determines that the child desires
12 to have physical placement with the parent and is sufficiently mature to make such
13 a decision and that physical placement with the parent would be in the best interests
14 of the child.

15 SECTION 20. 880.155 (2) of the statutes is amended to read:

16 880.155 (2) If one or both parents of a minor child are deceased and the child
17 is in the custody of the surviving parent or any other person, a grandparent or
18 stepparent of the child may petition for visitation privileges with respect to the child,
19 whether or not the person with custody is married. The grandparent or stepparent
20 may file the petition in a guardianship or temporary guardianship proceeding under
21 this chapter that affects the minor child or may file the petition to commence an
22 independent action under this chapter. The Except as provided in sub. (3m), the
23 court may grant reasonable visitation privileges to the grandparent or stepparent if
24 the surviving parent or other person who has custody of the child has notice of the
25 hearing and if the court determines that visitation is in the best interest of the child.

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1 **SECTION 21.** 880.155 (3m) of the statutes is created to read:

2 880.155 (3m) ~~(a) Except as provided in par. (b),~~ the court may not grant
3 visitation privileges to a grandparent or stepparent under this section if the
4 grandparent or stepparent has been convicted under s. 939.30 for the solicitation to
5 commit the first-degree intentional homicide of a parent of the child, and the
6 conviction has not been reversed, set aside or vacated.

7 (b) Paragraph (a) does not apply if the court determines that the child desires
8 to have visitation with the grandparent or stepparent and is sufficiently mature to
9 make such a decision and that the visitation would be in the best interests of the
10 child.

11 **SECTION 22.** 880.155 (4m) of the statutes is created to read:

12 880.155 (4m) ~~(a)~~ If a grandparent or stepparent granted visitation privileges
13 with respect to a child under this section is convicted under s. 939.30 for the
14 solicitation to commit the first-degree intentional homicide of a parent of the child,
15 and the conviction has not been reversed, set aside or vacated, the court shall modify
16 the visitation order by denying visitation with the child upon petition, motion or
17 order to show cause by a person having custody of the child, or upon the court's own
18 motion, and upon notice to the grandparent or stepparent granted visitation
19 privileges.

20 (b) Paragraph (a) does not apply if the court determines that the child desires
21 to have visitation with the grandparent or stepparent and is sufficiently mature to
22 make such a decision and that the visitation would be in the best interests of the
23 child.

24 **SECTION 23.** 880.157 of the statutes is created to read:

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1 **880.157 Prohibiting visitation or physical placement if a parent kills**
 2 **other parent.** (1) Except as provided in sub. (2) in an action under this chapter
 3 that affects a minor child, a court may not grant to a parent of the child visitation or
 4 physical placement rights with the child if the parent has been convicted under s.
 5 939.30 for the solicitation to commit the first-degree intentional homicide of the
 6 child's other parent, and the conviction has not been reversed, set aside or vacated.

7 (2) Subsection (1) does not apply if the court determines that the child desires
 8 to have visitation or periods of physical placement with the parent and is sufficiently
 9 mature to make such a decision and that visitation or periods of physical placement
 10 would be in the best interests of the child.

11 **SECTION 24.** 938.207 (1) (a) of the statutes is amended to read:

12 938.207 (1) (a) The home of a parent or guardian, except that a juvenile may
 13 not be held in the home of a parent or guardian if the parent or guardian has been
 14 convicted under s. 939.30 for the solicitation to commit the first-degree intentional
 15 homicide of a parent of the juvenile, and the conviction has not been reversed, set
 16 aside or vacated, unless the person making the custody decision determines that the
 17 juvenile desires to be held in the home of the parent or guardian and is sufficiently
 18 mature to make such a decision and that the placement would be in the best interests
 19 of the juvenile.

20 **SECTION 25.** 938.207 (1) (b) of the statutes is amended to read:

21 938.207 (1) (b) The home of a relative, except that a juvenile may not be held
 22 in the home of a relative if the relative has been convicted under s. 939.30 for the
 23 solicitation to commit the first-degree intentional homicide of a parent of the
 24 juvenile, and the conviction has not been reversed, set aside or vacated, unless the
 25 person making the custody decision determines that the juvenile desires to be held

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1 ~~in the home of the relative and is sufficiently mature to make such a decision and that~~
2 ~~the placement would be in the best interests of the juvenile.~~

3 **SECTION 26.** 938.34 (3) (a) of the statutes is amended to read:

4 938.34 (3) (a) The home of a parent or other relative of the juvenile, except that
5 the court may not designate the home of a parent or other relative of the juvenile as
6 the juvenile's placement if the parent or other relative has been convicted under s.
7 939.30 for the solicitation to commit the first-degree intentional homicide of a parent
8 of the juvenile, and the conviction has not been reversed, set aside or vacated, unless
9 the court determines that the juvenile desires to be placed in the home of the parent
10 or other relative and is sufficiently mature to make such a decision and that the
11 placement would be in the best interests of the juvenile.

12 **SECTION 27.** 938.34 (3) (b) of the statutes is amended to read:

13 938.34 (3) (b) ~~A home which need not be~~ The home of a person who is not
14 required to be licensed if placement is for less than 30 days, except that the judge may
15 not designate the name of a person who is not required to be licensed as the juvenile's
16 placement if the person has been convicted under s. 939.30 for the solicitation to
17 commit the first-degree intentional homicide of a parent of the juvenile, and the
18 conviction has not been reversed, set aside or vacated, unless the judge determines
19 that the juvenile desires to be placed in that home and is sufficiently mature to make
20 such a decision and that the placement would be in the best interests of the juvenile.

21 **SECTION 28.** 938.355 (3) of the statutes is renumbered 938.355 (3) (a) and
22 amended to read:

23 938.355 (3) (a) If Except as provided in par. (b), if, after a hearing on the issue
24 with due notice to the parent or guardian, the court finds that it would be in the best
25 interest of the juvenile, the court may set reasonable rules of parental visitation.

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1 **SECTION 29.** 938.355 (3) (b) of the statutes is created to read:

2 938.355 (3) (b) 1. ~~Except as provided in subd. 2,~~ ^{The} the court may not grant
3 visitation under par. (a) to a parent of a juvenile if the parent has been convicted
4 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
5 of the juvenile's other parent, and the conviction has not been reversed, set aside or
6 vacated.

7 ~~1m. Except as provided in subd. 2,~~ ^{2. If} if a parent who is granted visitation rights
8 with a juvenile under par. (a) is convicted under s. 939.30 for the solicitation to
9 commit the first-degree intentional homicide of the juvenile's other parent, and the
10 conviction has not been reversed, set aside or vacated, the court shall issue an order
11 prohibiting the parent from having visitation with the juvenile on petition of the
12 juvenile, the guardian or legal custodian of the juvenile, a person or agency bound
13 by the dispositional order or the district attorney or corporation counsel of the county
14 in which the dispositional order was entered, or on the court's own motion, and on
15 notice to the parent.

16 ~~2. Subdivisions 1. and 1m. do not apply if the court determines that the juvenile~~
17 ~~desires to have visitation with the parent and is sufficiently mature to make such a~~
18 ~~decision and that the visitation would be in the best interests of the juvenile.~~

19 **SECTION 30.** 938.357 (4d) of the statutes is created to read: ^{The}

20 938.357 (4d) (a) ~~Except as provided in par. (b),~~ the court may not change a
21 juvenile's placement to a placement in the home of a person who has been convicted
22 under s. 939.30 for the solicitation to commit the first-degree intentional homicide
23 of a parent of the juvenile, if the conviction has not been reversed, set aside or
24 vacated.

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(b) If

1 ~~(am) Except as provided in par (b), if~~ a parent in whose home a juvenile is placed
2 is convicted under s. 939.30 for the solicitation to commit the first-degree intentional
3 homicide of the juvenile's other parent, and the conviction has not been reversed, set
4 aside or vacated, the court shall change the juvenile's placement to a placement out
5 of the home of the parent on petition of the juvenile, the guardian or legal custodian
6 of the juvenile, a person or agency bound by the dispositional order or the district
7 attorney or corporation counsel of the county in which the dispositional order was
8 entered, or on the court's own motion, and on notice to the parent.

9 ~~(b) Paragraphs (a) and (am) do not apply if the court determines that the~~
10 ~~juvenile desires to be placed in the home of the person and is sufficiently mature to~~
11 ~~make such a decision and that the placement would be in the best interests of the~~
12 ~~juvenile.~~

SECTION 31. Initial applicability.

13
14 (1) This act first applies to orders for visitation or physical placement, and to
15 orders modifying or revising visitation or physical placement orders, that are
16 granted on the effective date of this subsection; to petitions to restrain and enjoin
17 visitation and contact with a child that are filed on the effective date of this
18 subsection; and to orders of the juvenile court placing a child in or removing a child
19 from the home of a parent, guardian or relative or granting or prohibiting parental
20 visitation granted on the effective date of this subsection; regardless of when the
21 conviction for solicitation to commit first-degree intentional homicide occurred.

22 (END)