

1999 DRAFTING REQUEST

Bill

Received: **12/8/98**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB: **97-4752 (SB 433)**

For: **Alberta Darling (608) 266-5830**

By/Representing: **Jim Villa**

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

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

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

Extra Copies:

Topic:

Prohibiting visitation with parent or other person who kills a 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>
/?	kahlepj 12/8/98 malaigm 12/16/98	jgeller 12/31/98		_____			
/1			hhagen 01/5/99	_____	lrb_docadmin 01/5/99	lrb_docadmin 01/11/99	

FE Sent For:

Not Needed

<END>

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1?	kahlepj	1 pgt 12/18/98					
		1 JLG 12/31	1/15	km/s			

FE Sent For:

<END>

Kahler, Pam

From: Villa, Jim
Sent: Monday, December 07, 1998 11:49 AM
To: Kahler, Pam
Subject: Darling '97-98 Legislation

Pam

Could you please redraft the following legislation from the '97-98 floor periods for Senator Darling? Thank you for your help, I look forward to working with you.

Jim Villa



SB 433



"Lizzy's Law" – regarding parental visitation rights.



State of Wisconsin
1997-1998 LEGISLATURE
1999-2000

1151/1
LRB-11504
PJK&GMM:jlg:km
jgt
jlg

1999 Bill

1997 SENATE BILL 433

D-note

February 3, 1998 - Introduced by Senators DARLING, FARROW, DRZEWIECKI, WELCH, ZIEN and WEEDEN, cosponsored by Representatives GREEN, ZUKOWSKI, LADWIG, DUFF, WASSERMAN, AINSWORTH, ALBERS, KELSO, PORTER, DOBYNS, GOETSCH and HARSDORF. Referred to Committee on Judiciary, Campaign Finance Reform and Consumer Affairs.

regenerate

1 AN ACT to renumber and amend 48.355 (3), 48.428 (6) and 938.355 (3); to
2 amend 48.345 (3) (a), 48.42 (1m) (b), 48.42 (1m) (c), 48.925 (1) (intro.), 767.245
3 (1), 880.155 (2) and 938.34 (3) (a); and to create 48.355 (3) (b), 48.357 (4d), 48.42
4 (1m) (d), 48.428 (6) (b), 48.925 (1m), 767.245 (1m), 767.247, 767.325 (4m),
5 880.155 (3m), 880.157, 938.355 (3) (b) and 938.357 (4d) of the statutes; relating
6 to: prohibiting the granting of visitation or physical placement with a child to
7 a parent or other person who intentionally kills a parent of 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 ~~it~~ would endanger the child's physical, mental or emotional health. In an action affecting the family, the court may 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.

the physical placement

SENATE BILL 433

delinquent or ✓

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 of first-degree or ~~1st~~^{second}-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, on the motion of a party or on its own motion, a court is required to modify an existing physical placement order by denying a parent physical placement with a child if the parent is convicted of first-degree or ~~1st~~^{second}-degree intentional homicide of the child's other parent. In all of these situations, however, the court may grant 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.

of the child, the parent & a guardian of the child or, if the placement is for less than 30 days, the home of a guardian 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 has been adjudged to be in need of protection or services or a juvenile who has been adjudged delinquent in, among other placements, the home of a parent or other relative. 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.

is in need of temporary physical custody or who

is in need of temporary physical custody or who

delinquent or ✓

or guardian

✓ stat. sec 401

This bill prohibits a juvenile court from placing a child or a juvenile who has been adjudged to be in need of protection or services or a juvenile who has been adjudged delinquent in the home of a parent or other relative of the child if the parent or other relative has been convicted of first-degree or ~~2nd~~^{2nd}-degree intentional homicide of a parent of the child. The bill also prohibits the juvenile court from granting visitation to a parent of such a child or juvenile if the parent has been convicted of first-degree or ~~2nd~~^{2nd}-degree intentional homicide of the child's other parent. In addition, the bill requires the juvenile court, on petition, to issue a temporary restraining order and injunction prohibiting 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 of first-degree or ~~2nd~~^{2nd}-degree intentional homicide of the child's other parent. Similarly, the bill prohibits the juvenile court from granting visitation to a birth parent of a child who has been placed in sustaining care following a TPR if the birth parent has been convicted of first-degree or ~~2nd~~^{2nd}-degree intentional homicide of the child's other birth parent. Finally, the bill prohibits the juvenile court from granting visitation rights to a relative who has maintained a relationship similar to a parent-child relationship with a child if the relative has

or guardian

SENATE BILL 433

child or ✓

stat. 940.01 ✓

been convicted of first-degree or 2nd-degree intentional homicide of a parent of the child. In all of these situations, however, the juvenile court may grant the visitation or placement 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 juvenile.

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

SECTION 1. 48.345 (3) (a) of the statutes is amended to read:

48.345 (3) (a) The home of a parent or other relative of the child, except that the judge may not designate the home of a parent or other relative of the child as the child's placement if the parent or other relative has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction has not been reversed, set aside or vacated, unless the judge determines that the child desires to be placed in the home of the parent or other relative and is sufficiently mature to make such a decision and that the placement would be in the best interests of the child.

SECTION 2. 48.355 (3) of the statutes is renumbered 48.355 (3) (a) and amended to read:

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

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

48.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant visitation under par. (a) to a parent of a child if the parent has been convicted under

Insert
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Proof w/ STATS.

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SENATE BILL 433

SECTION 3

1 s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
2 2nd-degree intentional homicide, of the child's other parent, and the conviction has
3 not been reversed, set aside or vacated.

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

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

8 48.357 (4d) (a) Except as provided in par. (b), the court may not change a child's
9 placement to a placement in the home of a person ~~who~~ ^{STET 2} has been convicted under s.
10 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
11 intentional homicide, of a parent of the child, ~~and~~ ^{if} the conviction has not been
12 reversed, set aside or vacated.

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

16 SECTION 5. 48.42 (1m) (b) of the statutes is amended to read:

17 48.42 (1m) (b) ~~The Subject to par. (a),~~ ^(e) the court may issue the temporary order
18 ex parte or may refuse to issue the temporary order and hold a hearing on whether
19 to issue an injunction. The temporary order is in effect until a hearing is held on the
20 issuance of an injunction. The court shall hold a hearing on the issuance of an
21 injunction on or before the date of the hearing on the petition to terminate parental
22 rights under s. 48.422 (1).

23 SECTION 6. 48.42 (1m) (c) of the statutes is amended to read:

24 48.42 (1m) (c) Notwithstanding any other order under s. 48.355 (3), the court,
25 ~~subject to par. (a),~~ ^(e) may grant an injunction prohibiting the respondent from visiting

Proof w/ STATS.

SENATE BILL 433

Proof w/ STATS.

1 or contacting the child if the court determines that the prohibition would be in the
2 best interests of the child. An injunction under this subsection is effective according
3 to its terms but may not remain in effect beyond the date the court dismisses the
4 petition for termination of parental rights under s. 48.427 (2) or issues an order
5 terminating parental rights under s. 48.427 (3).

6
7

SECTION 7. 48.42 (1m) (e) of the statutes is created to read:

48.42 (1m) (e) 1. Except as provided in subd. 2., the court shall issue a
8 temporary order and injunction prohibiting a parent of a child from visitation or
9 contact with the child if the parent has been convicted under s. 940.01 of the
10 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
11 homicide, of the child's other parent, and the conviction has not been reversed, set
12 aside or vacated.

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

Proof w/ STATS.

16 SECTION 8. 48.428 (6) of the statutes is renumbered 48.428 (6) (a) and amended
17 to read:

18 48.428 (6) (a) The Except as provided in par. (b). the court may order or prohibit
19 visitation by a birth parent of a child placed in sustaining care.

SECTION 9. 48.428 (6) (b) of the statutes is created to read:

20 48.428 (6) (b) 1. Except as provided in subd. 2., the court may not grant
21 visitation under par. (a) to a birth parent of a child who has been placed in sustaining
22 care if the birth parent has been convicted under s. 940.01 of the first-degree
23 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
24

SENATE BILL 433

SECTION 9

1 the child's other birth parent, and the conviction has not been reversed, set aside or
2 vacated.

3 2. Subdivision 1. does not apply if the court determines that the child desires
4 to have visitation with the birth parent and is sufficiently mature to make such a
5 decision and that the visitation would be in the best interests of the child.

6 **SECTION 10.** 48.925 (1) (intro.) of the statutes is amended to read:

Proof w/ Stats.

7 48.925 (1) (intro.) Upon petition by a relative who has maintained a
8 relationship similar to a parent-child relationship with a child who has been adopted
9 by a stepparent or relative, the court, subject to subs. (1m) and (2), may grant
10 reasonable visitation rights to that person if the petitioner has maintained such a
11 relationship within 2 years prior to the filing of the petition, if the adoptive parent
12 or parents, or, if a birth parent is the spouse of an adoptive parent, the adoptive
13 parent and birth parent, have notice of the hearing and if the court determines all
14 of the following:

15 **SECTION 11.** 48.925 (1m) of the statutes is created to read:

16 48.925 (1m) (a) Except as provided in par. (b), the court may not grant
17 visitation rights under sub. (1) to a relative who has maintained a relationship
18 similar to a parent-child relationship with a child if the relative has been convicted
19 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
20 2nd-degree intentional homicide, of a parent of the child, and the conviction has not
21 been reversed, set aside or vacated.

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

Proof w/ Stats.

25 **SECTION 12.** 767.245 (1) of the statutes is amended to read:

SENATE BILL 433

Proposed Stats.

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

SECTION 13. 767.245 (1m) of the statutes is created to read:

767.245 (1m) (a) Except as provided in par. (b), the court may not grant visitation rights under sub. (1) to a person who has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction has not been reversed, set aside or vacated.

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

SECTION 14. 767.247 of the statutes is created to read:

767.247 Prohibiting visitation or physical placement if a parent kills other parent. (1) Notwithstanding ^{ss. 767.23(am), 767.51(3) and 767.62(4)(a)} 767.24 (1), (4) and (5) and except as provided in sub. (2), in an action under this chapter that affects a minor child, a court may not grant to the child's parent visitation or physical placement rights with the child if the parent has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of the child's other parent, and the conviction has not been reversed, set aside or vacated.

(2) Subsection (1) does not apply if the court determines that the child desires to have visitation or periods of physical placement with the parent and is sufficiently

or family court commissioner

SENATE BILL 433

SECTION 14

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

3 SECTION 15. 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. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
9 2nd-degree intentional homicide, of the child's other parent, and the conviction has
10 not been reversed, set aside or 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 16. 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.

(Proof w/ stats)

SENATE BILL 433

1 **SECTION 17.** 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. 940.01 of the first-degree
5 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
6 a parent of the child, and the 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 18.** 880.157 of the statutes is created to read:

12 **880.157 Prohibiting visitation or physical placement if a parent kills**
13 **other parent.** (1) Except as provided in sub. (2), in an action under this chapter
14 that affects a minor child, a court may not grant to a parent of the child visitation or
15 physical placement rights with the child if the parent has been convicted under s.
16 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
17 intentional homicide, of the child's other parent, and the conviction has not been
18 reversed, set aside or vacated.

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

✓
✓
Insert
9-22

23 **SECTION 19.** 938.34 (3) (a) of the statutes is amended to read:

24 938.34 (3) (a) The home of a parent or other relative of the juvenile, except that
25 the court may not designate the home of a parent or other relative of the juvenile as

Placed in
STATS

SENATE BILL 433

SECTION 19

1 the juvenile's placement if the parent or other relative has been convicted under s.
 2 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
 3 intentional homicide, of a parent of the juvenile, and the conviction has not been
 4 reversed, set aside or vacated, unless the court determines that the juvenile desires
 5 to be placed in the home of the parent or other relative and is sufficiently mature to
 6 make such a decision and that the placement would be in the best interests of the
 7 juvenile.

8 SECTION 20. 938.355 (3) of the statutes is renumbered 938.355 (3) (a) and
 9 amended to read:

10 938.355 (3) (a) If Except as provided in par. (b), if, after a hearing on the issue
 11 with due notice to the parent or guardian, the court finds that it would be in the best
 12 interest of the juvenile, the court may set reasonable rules of parental visitation.

13 SECTION 21. 938.355 (3) (b) of the statutes is created to read:

14 938.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant
 15 visitation under par. (a) to a parent of a juvenile if the parent has been convicted
 16 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
 17 2nd-degree intentional homicide, of the juvenile's other parent, and the conviction
 18 has not been reversed, set aside or vacated.

19 2. Subdivision 1. does not apply if the court determines that the juvenile desires
 20 to have visitation with the parent and is sufficiently mature to make such a decision
 21 and that the visitation would be in the best interests of the juvenile.

22 SECTION 22. 938.357 (4d) of the statutes is created to read:

23 938.357 (4d) (a) Except as provided in par. (b), the court may not change a
 24 juvenile's placement to a placement in the home of a person who has been convicted
 25 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the

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SENATE BILL 433

if

1 2nd-degree intentional homicide, of a parent of the juvenile, ~~and~~ the conviction has
2 not been reversed, set aside or vacated.

3 (b) Paragraph (a) does not apply if the court determines that the juvenile
4 desires to be placed in the home of the person and is sufficiently mature to make such
5 a decision and that the placement would be in the best interests of the juvenile.

6 **SECTION 23. Initial applicability.**

7 (1) This act first applies to petitions for visitation^{or} physical placement
8 revision of physical placement orders that are filed on the effective date of this
9 subsection to petitions to restrain and enjoin visitation and contact with a child that
10 are filed on the effective date of this subsection and to orders of the juvenile court
11 placing a child in the home of a parent, guardian or other person or setting parental
12 visitation granted on the effective date of this subsection, regardless of when the
13 conviction of first-degree or 2nd-degree intentional homicide occurred.

14 (END) ✓

✓
, and to petitions, motions or orders
to show cause for

D-vote

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1151/1¹dn
PJK...pgt.
+
jlg

Your bill from last session (¹⁹⁹⁷SB~~433~~) was the companion bill to ¹⁹⁹⁷AB~~751~~. The drafting instructions for AB~~751~~ requested that visitation be prohibited with a parent or other person who had killed a child's parent. The request was based on a Massachusetts law that prohibited a court from ordering such visitation.

In the course of drafting AB~~751~~, it appears that the issue of custody never came up. Although it is very unlikely that a situation would arise in which a child's parent who had killed the child's other parent would petition a court for custody of the child, and very unlikely that a court would grant custody of a child to a parent who had killed the child's other parent, neither is impossible under current law. Would you like to address custody in this draft?

Pamela J. Kahler
Senior Legislative Attorney
266-2682

Insert 3-1

Section #. 48.207 (1) (a) of the statutes is amended to read:

And the conviction has not been reversed, set aside or vacated,

48.207 (1) (a) The home of a parent or guardian,

History: 1977 c. 354, 355, 447; 1979 c. 300; 1983 a. 172; 1983 a. 189 s. 329 (5); 1985 a. 332; 1993 a. 446; 1997 a. 27, 292.

NO #

, except that a child may not be held in the home of a parent or guardian if the parent or guardian has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, unless the person making the custody decision determines that the child desires to be held placed in the home of the parent or guardian and is sufficiently mature to make such a decision and that the placement would be in the best interests of the child



sent 3-1
cont

Section #. 48.207 (1) (b) of the statutes is amended to read:

48.207 (1) (b) The home of a relative.

History: 1977 c. 354, 355, 447; 1979 c. 300; 1983 a. 172; 1983 a. 189 s. 329 (5); 1985 a. 332; 1993 a. 446; 1997 a. 27, 292.

and the conviction has
not been reversed, set
aside or vacated,

except that ^a ~~the~~ child may not be held in the home of a relative if the relative has been convicted of under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, unless the person making the custody decision determines that the child desires to be ^{held} ~~placed~~ in the home of the relative and is sufficiently mature to make such a decision and that the placement would be in the best interests of the child

(end of note)

Insert 3-10

Section #. 48.345 (3) (b) of the statutes is amended to read:

The home of a person who is not required to be

48.345 (3) (b) ~~A home which need not be~~ licensed if placement is for less than 30 days

History: 1971 c. 125; 1977 c. 354; 1979 c. 300; 1987 a. 285; 1989 a. 31, 107; 1993 a. 363, 377, 385, 491; 1995 a. 27;

1995 a. 77 ss. 235 to 237, 239, 241, 249, 250, 257 to 263; 1995 a. 225, 448; 1997 a. 27, 80, 164, 292.

and the conviction has not been reversed, set aside
or vacated,

, except that the judge may not designate the home
of a person who is not required to be licensed as the
child's placement if the person has been convicted
~~of the~~ under s. 940.01 of the first-degree intentional
homicide, or under s. 940.05 of the 2nd-degree intentional
homicide, of a parent of the child, unless the judge
determines that the child desires to be placed
in that home and is sufficiently mature to
make such a decision and that the placement
would be in the best interests of the child

(end of insert)

✓
Sent 9-22

Section #. 938.207 (1) (a) of the statutes is amended to read:

938.207 (1) (a) The home of a parent or guardian.

History: 1995 a. 77.

✓
And the conviction has not
been reversed, set aside or
vacated,

✓
) except that a ^{juvenile} child may not be held in the home of a
parent or guardian if the parent or guardian has been
convicted under s. 940.01 of the first-degree intentional
homicide, or under s. 940.05 of the 2nd-degree intentional
homicide, or a parent of the ^{juvenile} child, unless the
person making the custody decision determines that
the ^{juvenile} child desires to be ^{held} placed in the home of
the parent or guardian and is sufficiently mature
to make such a decision and that the
placement would be in the best interests of the
^{juvenile} child ✓

Insert 9-22

Section #. 938.207 (1) (b) of the statutes is amended to read:

and the conviction has not been reversed, set aside or vacated,

938.207 (1) (b) The home of a relative.

History: 1995 a. 77.

except that ^{a juvenile} ~~the child~~ may not be held in the home of a relative if the relative has been convicted ~~of~~ under s. 940.01 of the first-degree intentional homicide, or under s. 940.⁰⁵ ~~02~~ of the 2nd-degree intentional homicide, of a parent of the ^{juvenile} ~~child~~, unless the person making the custody decision determines that the ^{juvenile} ~~child~~ desires to be ^{held} ~~placed~~ in the home of the relative and is sufficiently mature to make such a decision and that the placement would be in the best interests of the ~~child~~ ^{juvenile}.

(end of insert)

Best 10-7

and the conviction has not been
reversed, set aside or vacated

Section #. 938.34 (3) (b) of the statutes is amended to read:

The home of a person who is not required to be

938.34 (3) (b) A home which need not be licensed if placement is for less than 30 days

History: 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; s. 13.93 (2) (c).

, except that the judge may not designate the home
of a person who is not required to be licensed as the ^{juvenile's}
~~child's~~ placement if the person has been convicted
~~under~~ under s. 940.01 of the first-degree intentional
homicide, or under s. 940.05 of the 2nd-degree intentional
homicide, of a parent of the ~~child~~ ^{juvenile} unless the judge
determines that the ~~child~~ ^{juvenile} desires to be placed
in that home and is sufficiently mature to
make such a decision and that the placement
would be in the best interests of the ~~child~~ ^{juvenile}

(end of insert)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1151/1dn
PJK:pgt&jlg:hmh

Tuesday, January 5, 1999

Your bill from last session (1997 SB-433) was the companion bill to 1997 AB-751. The drafting instructions for AB-751 requested that visitation be prohibited with a parent or other person who had killed a child's parent. The request was based on a Massachusetts law that prohibited a court from ordering such visitation.

In the course of drafting AB-751, it appears that the issue of custody never came up. Although it is very unlikely that a situation would arise in which a child's parent who had killed the child's other parent would petition a court for custody of the child, and very unlikely that a court would grant custody of a child to a parent who had killed the child's other parent, neither is impossible under current law. Would you like to address custody in this draft?

Pamela J. Kahler
Senior Legislative Attorney
266-2682

Kahler, Pam

From: Villa, Jim
Sent: Monday, January 11, 1999 1:53 PM
To: Kahler, Pam
Subject: RE: LRB 1151/1dn

That would be great! Thanks ☺

-----Original Message-----

From: Kahler, Pam
Sent: Monday, January 11, 1999 1:48 PM
To: Villa, Jim
Subject: RE: LRB 1151/1dn

Would you like to have the draft jacketed?

-----Original Message-----

From: Villa, Jim
Sent: Monday, January 11, 1999 1:47 PM
To: Kahler, Pam
Subject: LRB 1151/1dn

Thank you for the draft of the garage door legislation. In the drafters note you ask if we want to address the issue of custody. We agree with your comments and don't think its necessary to address it in this draft. Can we proceed with the draft you've already provided us?

Jim Villa
Sen. Darling's Office

Please jacket LRB-1151/1.

Thanks,

PJK