

**1999 DRAFTING REQUEST**

**Senate Amendment (SA-SB30)**

Received: 02/4/99

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Mary Lazich (608) 266-5400

By/Representing: Jim Emerson

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Dom. Rel. - cust. and plac.  
Children - juvenile ct procedure  
Children - miscellaneous

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Make denial of visitation first apply to orders granted, not petitions filed, on effective date

**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 02/4/99 malaigm 02/12/99	ptellez 02/16/99		_____			
/1			martykr 02/16/99	_____	lrb_docadmin 02/16/99	lrb_docadmin 02/16/99	

FE Sent For:

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1?	kahlepj	11 pgt 2/16/99 1 jlg 2/16	2 KMT/6	HH 2 KMT/6			

FE Sent For:

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State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBa00687  
PJK&GMM fgt:...

SOON

Jig

SENATE AMENDMENT,  
TO 1999 SENATE BILL 30

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 7: delete "the granting of visitation" and substitute "a parent  
3 or other person who intentionally kills a parent of a child from having visitation  
4 with".

5 **2.** Page 1, line 8: delete that line and substitute "placement".

6 **3.** Page 1, line 9: delete "parent".

7 **4.** Page 5, line 10: after that line insert:

8 "1m. Except as provided in subd. 2., if a parent who is granted visitation rights  
9 with a child under par. (a) is convicted under s. 940.01 of the first-degree intentional  
10 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of the child's  
11 other parent, and the conviction has not been reversed, set aside or vacated, the court  
12 shall issue an order prohibiting the parent from having visitation with the child on  
13 petition of the child, the guardian or legal custodian of the child, a person or agency

1 bound by the dispositional order or the district attorney or corporation counsel of the  
2 county in which the dispositional order was entered, or on the court's own motion,  
3 and on notice to the parent."Ⓞ

4 5. Page 5, line 11: delete "Subdivision 1. does" and substitute "Subdivisions 1.  
5 and 2. do".

6 6. Page 5, line 19: after that line insert:

7 "(am) Except as provided in par (b), if a parent in whose home a child is placed  
8 is convicted under s. 940.01 of the first-degree intentional homicide, or under s.  
9 940.05 of the 2nd-degree intentional homicide, of the child's other parent, and the  
10 conviction has not been reversed, set aside or vacated, the court shall change the  
11 child's placement to a placement out of the home of the parent on petition of the child,  
12 the guardian or legal custodian of the child, a person or agency bound by the  
13 dispositional order or the district attorney or corporation counsel of the county in  
14 which the dispositional order was entered, or on the court's own motion, and on notice  
15 to the parent."Ⓞ

16 7. Page 5, line 20: delete "Paragraph (a) does" and substitute "Paragraphs (a)  
17 and (am) do".

18 8. Page 7, line 9: after that line insert:

19 "1m. Except as provided in subd. 2., if a birth parent who is granted visitation  
20 rights with a child under par. (a) is convicted under s. 940.01 of the first-degree  
21 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of  
22 the child's other birth parent, and the conviction has not been reversed, set aside or  
23 vacated, the court shall issue an order prohibiting the birth parent from having  
24 visitation with the child on petition of the child, the guardian or legal custodian of

1 the child, or the district attorney or corporation counsel of the county in which the  
2 dispositional order was entered, or on the court's own motion, and on notice to the  
3 birth parent."Ⓞ

4 **9.** Page 7, line 10: delete "Subdivision 1. does" and substitute "Subdivisions  
5 1. and ~~R.~~ do".

6 **10.** Page 8, line 3: after that line insert:

7 "(am) Except as provided in par. (b), if a relative ~~who has maintained a~~  
8 ~~relationship similar to a parent-child relationship with a child and~~ who is granted  
9 visitation rights with a child under sub. (1) is 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 a parent of the child, and the conviction has not been reversed, set aside  
12 or vacated, the court shall issue an order prohibiting the relative from having  
13 visitation with the child on petition of the child or the parent, guardian or legal  
14 custodian of the child, or on the court's own motion, and on notice to the relative."Ⓞ

15 **11.** Page 8, line 4: delete "Paragraph (a) does" and substitute "Paragraphs (a)  
16 and ~~R.~~ do".

17 **12.** Page 8, line 21: after that line insert:

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

19 767.245 (6) (a) If a person granted visitation rights with a child under this  
20 section is convicted under s. 940.01 of the first-degree intentional homicide, or under  
21 s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the  
22 conviction has not been reversed, set aside or vacated, the court shall modify the  
23 visitation order by denying visitation with the child upon petition, motion or order

1 to show cause by a parent or guardian of the child, or upon the court's own motion,  
2 and upon notice to the person granted visitation rights.

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

6 **13.** Page 10, line 17: after that line insert:

7 “SECTION 20m. 880.155 (4m) of the statutes is created to read:

8 880.155 (4m) (a) If a grandparent or stepparent granted visitation privileges  
9 with respect to a child under this section is 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 a parent of the child, and the conviction has not been reversed, set aside  
12 or vacated, the court shall modify the visitation order by denying visitation with the  
13 child upon petition, motion or order to show cause by a person having custody of the  
14 child, or upon the court's own motion, and upon notice to the grandparent or  
15 stepparent granted visitation privileges.

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

20 **14.** Page 13, line 3: after that line insert:

21 “1m. Except as provided in subd. 2., if a parent who is granted visitation rights  
22 with a juvenile under par. (a) is 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 the juvenile's other parent, and the conviction has not been reversed, set aside or

1 vacated, the court shall issue an order prohibiting the parent from having visitation  
 2 with the juvenile on petition of the juvenile, the guardian or legal custodian of the  
 3 juvenile, a person or agency bound by the dispositional order or the district attorney  
 4 or corporation counsel of the county in which the dispositional order was entered, or  
 5 on the court's own motion, and on notice to the parent.

WPO: REVERSE QUOTATION

6 **15.** Page 13, line 4: delete "Subdivision 1. does" and substitute "Subdivisions  
 7 1. and ~~2.~~ do".

8 **16.** Page 13, line 12: after that line insert:

9 "(am) Except as provided in par (b), if a parent in whose home a juvenile is  
 10 placed is convicted under s. 940.01 of the first-degree intentional homicide, or under  
 11 s. 940.05 of the 2nd-degree intentional homicide, of the juvenile's other parent, and  
 12 the conviction has not been reversed, set aside or vacated, the court shall change the  
 13 juvenile's placement to a placement out of the home of the parent on petition of the  
 14 juvenile, the guardian or legal custodian of the juvenile, a person or agency bound  
 15 by the dispositional order or the district attorney or corporation counsel of the county  
 16 in which the dispositional order was entered, or on the court's own motion, and on  
 17 notice to the parent."

18 **17.** Page 13, line 13: delete "Paragraph (a) does" and substitute "Paragraphs  
 19 (a) and ~~1.~~ do".

20 **18.** Page 13, line 17: delete lines 17 to 24 and substitute:

(END) ✓

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

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

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

938.357 (4d) (a) Except as provided in par. (b), the court may not change a juvenile's placement to a placement in the home of 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 juvenile, if the conviction has not been reversed, set aside or vacated.

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

SECTION 29. Initial applicability.

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"(1) This act first applies to ~~actions~~ <sup>orders</sup> for visitation or physical placement, and to ~~actions, motions or orders~~ <sup>orders modifying or</sup> physical placement ~~orders~~ <sup>revising</sup> that are ~~filed~~ <sup>granted</sup> on the effective date of this subsection; to petitions to restrain and enjoin visitation and contact with a child that are filed on the effective date of this subsection; and to orders of the juvenile court placing a child in the home of a parent, guardian or relative or ~~setting~~ <sup>granting or prohibiting</sup> parental visitation granted on the effective date of this subsection; regardless of when the conviction of first-degree or 2nd-degree intentional homicide occurred. "

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