

1999 DRAFTING REQUEST

Bill

Received: **03/26/99**

Received By: **kahlepj**

Wanted: **As time permits**

Identical to LRB:

For: **Alice Clausing (608) 266-7745**

By/Representing: **Carrie**

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

Drafter: **kahlepj**

May Contact:

Alt. Drafters:

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

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prohibit visitation or placement with person who solicits for first degree murder of a 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>
/?	kahlepj 04/5/99 malaigm 04/8/99	jgeller 04/8/99		_____ _____ _____ _____			
/1			haueca 04/9/99	_____ _____	lrb_docadmin 04/9/99		
/2	kahlepj 05/19/99	jgeller 05/19/99	haueca 05/10/99	_____ _____	lrb_docadmin 05/10/99		
/3			jfrantze 05/23/99	_____ _____	lrb_docadmin 05/23/99	lrb_docadmin 06/3/99	

Vers. Drafted Reviewed Typist Proofed Submitted Jacketed Required

FE Sent For:

*Not
Needed*

<END>

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/1			haugca 04/9/99	_____	lrb_docadmin 04/9/99		
/2			haugca 05/10/99	_____	lrb_docadmin 05/10/99		
FE Sent For:			<i>5/23</i>	<i>5/23</i>			

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/?	kahlepj	1 4/8 jlg	ch u-a	AKY u-4 RMA			

FE Sent For:

<END>

for Clousing - same as AB 108

but only conviction for solicitation
to commit first-degree intentional
homicide

or under s. 939.30 for the solicitation
to commit the first-degree intentional
homicide



State of Wisconsin
1999 - 2000 LEGISLATURE

2628/1
LRB-26204-1
PJK&GMM:jlg:ch
stays

ENGROSSED 1999 ASSEMBLY BILL 108

March 26, 1999 Printed by direction of SENATE CHIEF CLERK.

regenerate

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 intentionally ~~is~~ a parent of a child from having visitation ~~with~~
9 or physical placement ~~of~~ the child. → with

is convicted for the solicitation to commit the first-degree intentional homicide of

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 1999 Assembly Bill 108 consists of the bill, as passed by the assembly on March 18, 1999, as affected by the following documents adopted in the assembly on March 18, 1999: Assembly Amendment 1.

Content of Engrossed 1999 Assembly Bill 108:

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

ENGROSSED ASSEMBLY BILL 108

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 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 of ~~first-degree intentional homicide of a parent of the child~~ first-degree ~~intentional homicide of a parent of the child~~ 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 of ~~first-degree intentional homicide of the child's other parent~~ first-degree ~~intentional homicide of the child's other parent~~ 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.

✓ for solicitation to commit the



(use 5 times)

ENGROSSED ASSEMBLY BILL 108

for solicitation to commit the

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 of ~~first-degree or second-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 of ~~first-degree or second-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 of ~~first-degree or second-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 of ~~first-degree or second-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 of ~~first-degree or second-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. ~~940.01~~ ^{insert 1} the first-degree intentional homicide ~~of a parent of the child~~
5 ~~of the second-degree intentional homicide~~ of a parent of the child, and the conviction

ENGROSSED ASSEMBLY BILL 108

SECTION 1

1 has not been reversed, set aside or vacated, unless the person making the custody
2 decision determines that the child desires to be held in the home of the parent or
3 guardian and is sufficiently mature to make such a decision and that the placement
4 would be in the best interests of the child.

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

6 48.207 (1) (b) The home of a relative, except that a child may not be held in the
7 home of a relative if the relative has been convicted under s. ~~48.207 (1) (b)~~ (the *Insert 1*
8 first-degree intentional homicide or under s. ~~94.05~~ of the 2nd degree intentional *keep*
9 ~~homicide~~ of a parent of the child, and the conviction has not been reversed, set aside
10 or vacated, unless the person making the custody decision determines that the child
11 desires to be held in the home of the relative and is sufficiently mature to make such
12 a decision and that the placement would be in the best interests of the child.

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

14 48.345 (3) (a) The home of a parent or other relative of the child, except that
15 the judge may not designate the home of a parent or other relative of the child as the
16 child's placement if the parent or other relative has been convicted under s. ~~94.05~~
17 ~~the~~ first-degree intentional homicide ~~or under s. 94.05 of the 2nd degree~~ *Insert 1*
18 ~~homicide~~ of a parent of the child, and the conviction has not been
19 reversed, set aside or vacated, unless the judge determines that the child desires to
20 be placed in the home of the parent or other relative and is sufficiently mature to
21 make such a decision and that the placement would be in the best interests of the
22 child.

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

24 48.345 (3) (b) ~~A home which need not be~~ The home of a person who is not
25 required to be licensed if placement is for less than 30 days, except that the judge may

ENGROSSED ASSEMBLY BILL 108

restore
the scored
text

1 not designate the home of a person who is not required to be licensed as the child's
 2 placement if the person has been convicted under s. ~~940.05~~ the first-degree
 3 ~~intentional homicide~~ or under s. 940.05 of the 2nd-degree intentional homicide of
 4 a parent of the child, and the conviction has not been reversed, set aside or vacated,
 5 unless the judge determines that the child desires to be placed in that home and is
 6 sufficiently mature to make such a decision and that the placement would be in the
 7 best interests of the child.

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

10 48.355 (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 judge court finds that it would be in
 12 the best interest of the child, the judge court may set reasonable rules of parental
 13 visitation.

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

15 48.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant
 16 visitation under par. (a) to a parent of a child if the parent has been convicted under
 17 s. ~~940.05~~ ^{insert 2} the first-degree intentional homicide, ~~or under s. 940.05 of the~~
 18 ~~2nd-degree intentional homicide~~ of the child's other parent, and the conviction has
 19 not been reversed, set aside or vacated.

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

(WFO: note insert change)

insert 1

keep

insert 2

insert 2

ENGROSSED ASSEMBLY BILL 108

SECTION 6

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

7 SECTION 7. 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 has been convicted under s.
10 ~~48.357~~ ^{insert 2} the first-degree intentional homicide ~~or under s. 94.05 of the 2nd degree~~
11 ~~intentional homicide~~ of a parent of the child, if the conviction has not been reversed,
12 set aside or vacated.

13 (am) Except as provided in par (b), if a parent in whose home a child is placed
14 is convicted under s. ~~48.357~~ ^{insert 2} the first-degree intentional homicide ~~or under s. 94.05~~
15 ~~of the 2nd degree intentional homicide~~ of the child's other parent, and the
16 conviction has not been reversed, set aside or vacated, the court shall change the
17 child's placement to a placement out of the home of the parent on petition of the child,
18 the guardian or legal custodian of the child, a person or agency bound by the
19 dispositional order or the district attorney or corporation counsel of the county in
20 which the dispositional order was entered, or on the court's own motion, and on notice
21 to the parent.

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

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

ENGROSSED ASSEMBLY BILL 108

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

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

8 48.42 (1m) (c) Notwithstanding any other order under s. 48.355 (3), the court,
 9 subject to par. (e), may grant an injunction prohibiting the respondent from visiting
 10 or contacting the child if the court determines that the prohibition would be in the
 11 best interests of the child. An injunction under this subsection is effective according
 12 to its terms but may not remain in effect beyond the date the court dismisses the
 13 petition for termination of parental rights under s. 48.427 (2) or issues an order
 14 terminating parental rights under s. 48.427 (3).

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

16 48.42 (1m) (e) 1. Except as provided in subd. 2., the court shall issue a
 17 temporary order and injunction prohibiting a parent of a child from visitation or
 18 contact with the child if the parent has been convicted under s. ~~940.05~~ (the *Insert 2*
 19 first-degree intentional homicide *keep* or under s. 940.05 of the ~~2nd degree intentional~~
 20 ~~homicide~~ of the child's other parent, and the conviction has not been reversed, set
 21 aside or vacated.

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

ENGROSSED ASSEMBLY BILL 108

SECTION 11

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

3 48.428 (6) (a) ~~The~~ Except as provided in par. (b), the court may order or prohibit
4 visitation by a birth parent of a child placed in sustaining care.

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

6 48.428 (6) (b) 1. Except as provided in subd. 2., the court may not grant
7 visitation under par. (a) to a birth parent of a child who has been placed in sustaining
8 care if the birth parent has been convicted under s. ~~48.428~~ ^{insert 2} the first-degree
9 intentional homicide ~~or under s. 48.428~~ ^{insert 2} or the 2nd-degree intentional homicide ^{keep} of
10 the child's other birth parent, and the conviction has not been reversed, set aside or
11 vacated.

12 1m. Except as provided in subd. 2., if a birth parent who is granted visitation
13 rights with a child under par. (a) is convicted under s. ~~48.428~~ ^{insert 2} the first-degree
14 intentional homicide ~~or under s. 48.428~~ ^{insert 2} or the 2nd-degree intentional homicide ^{keep} of
15 the child's other birth parent, and the conviction has not been reversed, set aside or
16 vacated, the court shall issue an order prohibiting the birth parent from having
17 visitation with the child on petition of the child, the guardian or legal custodian of
18 the child, or the district attorney or corporation counsel of the county in which the
19 dispositional order was entered, or on the court's own motion, and on notice to the
20 birth parent.

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

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

ENGROSSED ASSEMBLY BILL 108

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

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

10 48.925 (1m) (a) Except as provided in par. (b), the court may not grant
11 visitation rights under sub. (1) to a relative who has maintained a relationship
12 similar to a parent-child relationship with a child if the relative has been convicted
13 under s. ~~48.925~~ ^{insert 2} the first-degree intentional homicide ~~or under s. 940.05 of the~~
14 ~~second-degree intentional homicide~~ of a parent of the child, and the conviction has not
15 been reversed, set aside or vacated.

16 (am) Except as provided in par. (b), if a relative who is granted visitation rights
17 with a child under sub. (1) is convicted under s. ~~48.925~~ ^{insert 2} the first-degree intentional
18 ~~homicide or under s. 940.05 of the~~ ~~second-degree intentional homicide~~ of a parent of
19 the child, and the conviction has not been reversed, set aside or vacated, the court
20 shall issue an order prohibiting the relative from having visitation with the child on
21 petition of the child or the parent, guardian or legal custodian of the child, or on the
22 court's own motion, and on notice to the relative.

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

ENGROSSED ASSEMBLY BILL 108

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

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

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

8 767.245 (1m) (a) Except as provided in par. (b), the court may not grant
9 visitation rights under sub. (1) to a person who has been convicted under s. ~~940.05~~
10 ~~the first-degree intentional homicide~~ ^{→ insert 2} ~~or under s. 940.05 of the 2nd degree~~
11 ~~intentional homicide~~ of a parent of the child, and 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 have visitation with the person and is sufficiently mature to make such a decision
15 and that the visitation would be in the best interests of the child.

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

17 767.245 (6) (a) If a person granted visitation rights with a child under this
18 section is convicted under s. ~~940.05~~ ^{→ insert 2} ~~the first-degree intentional homicide~~
19 ~~s. 940.05 of the 2nd degree intentional homicide~~ of a parent of the child, and the
20 conviction has not been reversed, set aside or vacated, the court shall modify the
21 visitation order by denying visitation with the child upon petition, motion or order
22 to show cause by a parent or guardian of the child, or upon the court's own motion,
23 and upon notice to the person granted visitation rights.

ENGROSSED ASSEMBLY BILL 108

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.** 767.247 of the statutes is created to read:

5 **767.247 Prohibiting visitation or physical placement if a parent kills**
6 **other parent.** (1) Notwithstanding ss. 767.23 (1) (am), 767.24 (1), (4) and (5),
7 767.51 (3) and 767.62 (4) (a) and except as provided in sub. (2), in an action under this
8 chapter that affects a minor child, a court or family court commissioner may not
9 grant to the child's parent visitation or physical placement rights with the child if the
10 parent has been convicted under s. ~~940.01~~ ^{insert 2} the first-degree intentional homicide
11 ~~or under s. 940.05 of the second-degree intentional homicide~~ of the child's other parent,
12 and the conviction has not been reversed, set aside or vacated.

13 (2) Subsection (1) does not apply if the court or family court commissioner
14 determines that the child desires to have visitation or periods of physical placement
15 with the parent and is sufficiently mature to make such a decision and that the
16 visitation or periods of physical placement would be in the best interests of the child.

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

18 **767.325 (4m) DENIAL OF PHYSICAL PLACEMENT FOR KILLING OTHER PARENT.** (a)
19 Notwithstanding subs. (1) to (4), upon petition, motion or order to show cause by a
20 party or on its own motion, a court shall modify a physical placement order by
21 denying a parent physical placement with a child if the parent has been convicted
22 under s. ~~940.01~~ ^{insert 2} the first-degree intentional homicide, ~~or under s. 940.05 of the~~
23 ~~second-degree intentional homicide~~ of the child's other parent, and the conviction has
24 not been reversed, set aside or vacated.

delete
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WJ

ENGROSSED ASSEMBLY BILL 108

SECTION 18

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

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

6 880.155 (2) If one or both parents of a minor child are deceased and the child
7 is in the custody of the surviving parent or any other person, a grandparent or
8 stepparent of the child may petition for visitation privileges with respect to the child,
9 whether or not the person with custody is married. The grandparent or stepparent
10 may file the petition in a guardianship or temporary guardianship proceeding under
11 this chapter that affects the minor child or may file the petition to commence an
12 independent action under this chapter. The Except as provided in sub. (3m), the
13 court may grant reasonable visitation privileges to the grandparent or stepparent if
14 the surviving parent or other person who has custody of the child has notice of the
15 hearing and if the court determines that visitation is in the best interest of the child.

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

17 880.155 (3m) (a) Except as provided in par. (b), the court may not grant
18 visitation privileges to a grandparent or stepparent under this section if the
19 grandparent or stepparent has been convicted under s. ~~940.04~~ ^{insert 2} the first-degree
20 intentional homicide ~~or under s. 940.04 of the 2nd-degree intentional homicide~~ ^{← keep}
21 a parent of the child, and the conviction has not 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 grandparent or stepparent and is sufficiently mature to
24 make such a decision and that the visitation would be in the best interests of the
25 child.

ENGROSSED ASSEMBLY BILL 108

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

2 880.155 (4m) (a) If a grandparent or stepparent granted visitation privileges

3 with respect to a child under this section is convicted under s. ~~900.15~~ ^(the)

4 first-degree intentional homicide ~~or under s. 940.08 of the 2nd-degree intentional~~

5 ~~homicide~~ of a parent of the child, and the conviction has not been reversed, set aside

6 or vacated, the court shall modify the visitation order by denying visitation with the

7 child upon petition, motion or order to show cause by a person having custody of the

8 child, or upon the court's own motion, and upon notice to the grandparent or

9 stepparent granted visitation privileges.

10 (b) Paragraph (a) does not apply if the court determines that the child desires

11 to have visitation with the grandparent or stepparent and is sufficiently mature to

12 make such a decision and that the visitation would be in the best interests of the

13 child.

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

15 **880.157 Prohibiting visitation or physical placement if a parent kills**

16 **other parent.** (1) Except as provided in sub. (2), in an action under this chapter

17 that affects a minor child, a court may not grant to a parent of the child visitation or

18 physical placement rights with the child if the parent has been convicted under s.

19 ~~900.15~~ ^{→ insert 2} the first-degree intentional homicide ~~or under s. 940.08 of the 2nd-degree~~

20 ~~intentional homicide~~ of the child's other parent, and the conviction has not been

21 reversed, set aside or vacated.

22 (2) Subsection (1) does not apply if the court determines that the child desires

23 to have visitation or periods of physical placement with the parent and is sufficiently

24 mature to make such a decision and that visitation or periods of physical placement

25 would be in the best interests of the child.

insert 2
keep

ENGROSSED ASSEMBLY BILL 108

(WFO: note insert change)

Insert 1

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

938.207 (1) (a) The home of a parent or guardian, except that a juvenile may not be held in the home of a parent or guardian if the parent or guardian has been convicted under s. ~~938.207~~ the first-degree intentional homicide ~~of a parent of the juvenile, and the conviction has not been reversed, set aside or vacated, unless the person making the custody decision determines that the juvenile desires to be held 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.~~

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

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

Insert 1

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

938.34 (3) (a) The home of a parent or other relative of the juvenile, except that the court may not designate the home of a parent or other relative of the juvenile as the juvenile's placement if the parent or other relative has been convicted under s. ~~938.34~~ the first-degree intentional homicide ~~of a parent of the juvenile, and the conviction has not been reversed, set aside or vacated, unless the court determines that the juvenile desires~~

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ENGROSSED ASSEMBLY BILL 108

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

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

5 938.34 (3) (b) ~~A home which need not be~~ The home of a person who is not
6 required to be licensed if placement is for less than 30 days, except that the judge may
7 not designate the name of a person who is not required to be licensed as the juvenile's
8 placement if the person has been convicted under s. ~~940.05~~ the first-degree
9 intentional homicide ~~or under s. 940.05 of the first-degree intentional homicide of~~
10 a parent of the juvenile, and the conviction has not been reversed, set aside or
11 vacated, unless the judge determines that the juvenile desires to be placed in that
12 home and is sufficiently mature to make such a decision and that the placement
13 would be in the best interests of the juvenile.

insert 1

keep

14 SECTION 26. 938.355 (3) of the statutes is renumbered 938.355 (3) (a) and
15 amended to read:

16 938.355 (3) (a) ~~If~~ Except as provided in par. (b), if, after a hearing on the issue
17 with due notice to the parent or guardian, the court finds that it would be in the best
18 interest of the juvenile, the court may set reasonable rules of parental visitation.

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

20 938.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant
21 visitation under par. (a) to a parent of a juvenile if the parent has been convicted
22 under s. ~~940.05~~ the first-degree intentional homicide ~~or under s. 940.05 of the~~
23 ~~first-degree intentional homicide~~ of the juvenile's other parent, and the conviction
24 has not been reversed, set aside or vacated.

note insert change

insert 2

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SECTION 27

1 1m. Except as provided in subd. 2., if a parent who is granted visitation rights
 2 with a juvenile under par. (a) is convicted under s. ~~940.05~~ the first-degree
 3 intentional homicide ~~of a juvenile or under s. 940.05 of the first-degree intentional homicide~~ of
 4 the juvenile's other parent, and the conviction has not been reversed, set aside or
 5 vacated, the court shall issue an order prohibiting the parent from having visitation
 6 with the juvenile on petition of the juvenile, the guardian or legal custodian of the
 7 juvenile, a person or agency bound by the dispositional order or the district attorney
 8 or corporation counsel of the county in which the dispositional order was entered, or
 9 on the court's own motion, and on notice to the parent.

10 2. Subdivisions 1. and 1m. do not apply if the court determines that the juvenile
 11 desires to have visitation with the parent and is sufficiently mature to make such a
 12 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:

14 938.357 (4d) (a) Except as provided in par. (b), the court may not change a
 15 juvenile's placement to a placement in the home of a person who has been convicted
 16 under s. ~~940.05~~ the first-degree intentional homicide ~~or under s. 940.05 of the~~
 17 ~~second-degree intentional homicide~~ of a parent of the juvenile, if the conviction has not
 18 been reversed, set aside or vacated.

19 (am) Except as provided in par (b), if a parent in whose home a juvenile is placed
 20 is convicted under s. ~~940.05~~ the first-degree intentional homicide ~~of a juvenile~~
 21 ~~or under s. 940.05 of the first-degree intentional homicide~~ of the juvenile's other parent, and the
 22 conviction has not been reversed, set aside or vacated, the court shall change the
 23 juvenile's placement to a placement out of the home of the parent on petition of the
 24 juvenile, the guardian or legal custodian of the juvenile, a person or agency bound
 25 by the dispositional order or the district attorney or corporation counsel of the county



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1 in which the dispositional order was entered, or on the court's own motion, and on
2 notice to the parent.

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

7 **SECTION 29. Initial applicability.**

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

16 (END)

for solicitation to commit

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2628/?ins

.....

INSERT 1 (UNDERScoreD)

no ft 939.30[✓] for the solicitation to commit ~~NO~~
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(END OF INSERT 1)

INSERT 2 (PLAIN TEXT)

no ft 939.30 for the solicitation to commit ~~NO~~
~~ft~~

(END OF INSERT 2)



Substitute
3036/2
for
2628/3

1999 ASSEMBLY BILL

Regen

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

ASSEMBLY BILL

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.

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 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

ASSEMBLY BILL

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.

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.

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

8 48.207 (1) (b) The home of a relative, except that a child may not be held in the
9 home of a relative if the relative has been convicted under s. 939.30 for the
10 solicitation to commit the first-degree intentional homicide of a parent of the child,
11 and the conviction has not been reversed, set aside or vacated.

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

2 48.345 (3) (a) The home of a parent or other relative of the child, except that
3 the judge may not designate the home of a parent or other relative of the child as the
4 child's placement if the parent or other relative has been convicted under s. 939.30
5 for the solicitation to commit the first-degree intentional homicide of a parent of the
6 child, and the conviction has not been reversed, set aside or vacated.

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

8 48.345 (3) (b) ~~A home which need not be~~ The home of a person who is not
9 required to be licensed if placement is for less than 30 days, except that the judge may
10 not designate the home of a person who is not required to be licensed as the child's
11 placement if the person has been convicted under s. 939.30 for the solicitation to
12 commit the first-degree intentional homicide of a parent of the child, and the
13 conviction has not been reversed, set aside or vacated.

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

16 48.355 (3) (a) ~~If~~ Except as provided in par. (b), if, after a hearing on the issue
17 with due notice to the parent or guardian, the judge ~~court~~ finds that it would be in
18 the best interest of the child, the judge ~~court~~ may set reasonable rules of parental
19 visitation.

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

21 48.355 (3) (b) 1. The court may not grant visitation under par. (a) to a parent
22 of a child if the parent has been convicted under s. 939.30 for the solicitation to
23 commit the first-degree intentional homicide of the child's other parent, and the
24 conviction has not been reversed, set aside or vacated.

ASSEMBLY BILL

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

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

10 48.357 (4d) (a) The court may not change a child's placement to a placement
11 in the home of a person who has been convicted under s. 939.30 for the solicitation
12 to commit the first-degree intentional homicide of a parent of the child, if the
13 conviction has not been reversed, set aside or vacated.

14 (b) If a parent in whose home a child is placed is convicted under s. 939.30 for
15 the solicitation to commit the first-degree intentional homicide of the child's other
16 parent, and the conviction has not been reversed, set aside or vacated, the court shall
17 change the child's placement to a placement out of the home of the parent on petition
18 of the child, the guardian or legal custodian of the child, a person or agency bound
19 by the dispositional order or the district attorney or corporation counsel of the county
20 in which the dispositional order was entered, or on the court's own motion, and on
21 notice to the parent.

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

23 48.42 (1m) (b) The Subject to par. (e), the court may issue the temporary order
24 ex parte or may refuse to issue the temporary order and hold a hearing on whether
25 to issue an injunction. The temporary order is in effect until a hearing is held on the

ASSEMBLY BILL**SECTION 8**

1 issuance of an injunction. The court shall hold a hearing on the issuance of an
2 injunction on or before the date of the hearing on the petition to terminate parental
3 rights under s. 48.422 (1).

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

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

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

13 48.42 (1m) (e) The court shall issue a temporary order and injunction
14 prohibiting a parent of a child from visitation or contact with the child if the parent
15 has been convicted under s. 939.30 for the solicitation to commit the first-degree
16 intentional homicide of the child's other parent, and the conviction has not been
17 reversed, set aside or vacated.

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

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

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

23 48.428 (6) (b) 1. The court may not grant visitation under par. (a) to a birth
24 parent of a child who has been placed in sustaining care if the birth parent has been
25 convicted under s. 939.30 for the solicitation to commit the first-degree intentional

ASSEMBLY BILL

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

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

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

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

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

21 48.925 (1m) (a) The court may not grant visitation rights under sub. (1) to a
22 relative who has maintained a relationship similar to a parent-child relationship
23 with a child if the relative has been convicted under s. 939.30 for the solicitation to
24 commit the first-degree intentional homicide of a parent of the child, and the
25 conviction has not been reversed, set aside or vacated.

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

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

8 767.245 (1) Except as provided in sub. subs. (1m) and (2m), upon petition by
9 a grandparent, greatgrandparent, stepparent or person who has maintained a
10 relationship similar to a parent-child relationship with the child, the court may
11 grant reasonable visitation rights to that person if the parents have notice of the
12 hearing and if the court determines that visitation is in the best interest of the child.

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

14 767.245 (1m) The court may not grant visitation rights under sub. (1) to a
15 person who has been convicted under s. 939.30 for the solicitation to commit the
16 first-degree intentional homicide of a parent of the child, and the conviction has not
17 been reversed, set aside or vacated.

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

19 767.245 (6) If a person granted visitation rights with a child under this section
20 is convicted under s. 939.30 for the solicitation to commit the first-degree intentional
21 homicide of a parent of the child, and the conviction has not been reversed, set aside
22 or vacated, the court shall modify the visitation order by denying visitation with the
23 child upon petition, motion or order to show cause by a parent or guardian of the
24 child, or upon the court's own motion, and upon notice to the person granted
25 visitation rights.

ASSEMBLY BILL

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

2 **767.247 Prohibiting visitation or physical placement if a parent kills**
3 **other parent.** Notwithstanding ss. 767.23 (1) (am), 767.24 (1), (4) and (5), 767.51
4 (3) and 767.62 (4) (a), in an action under this chapter that affects a minor child, a
5 court or family court commissioner may not grant to the child's parent visitation or
6 physical placement rights with the child if the parent has been convicted under s.
7 939.30 for the solicitation to commit the first-degree intentional homicide of the
8 child's other parent, and the conviction has not been reversed, set aside or vacated.

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

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

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

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

ASSEMBLY BILL**SECTION 20**

1 the surviving parent or other person who has custody of the child has notice of the
2 hearing and if the court determines that visitation is in the best interest of the child.

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

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

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

9 880.155 (4m) If a grandparent or stepparent granted visitation privileges with
10 respect to a child under this section is convicted under s. 939.30 for the solicitation
11 to commit the first-degree intentional homicide of a parent of the child, and the
12 conviction has not been reversed, set aside or vacated, the court shall modify the
13 visitation order by denying visitation with the child upon petition, motion or order
14 to show cause by a person having custody of the child, or upon the court's own motion,
15 and upon notice to the grandparent or stepparent granted visitation privileges.

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

17 **880.157 Prohibiting visitation or physical placement if a parent kills**
18 **other parent.** In an action under this chapter that affects a minor child, a court may
19 not grant to a parent of the child visitation or physical placement rights with the
20 child if the parent has been convicted under s. 939.30 for the solicitation to commit
21 the first-degree intentional homicide of the child's other parent, and the conviction
22 has not been reversed, set aside or vacated.

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

24 938.207 (1) (a) The home of a parent or guardian, except that a juvenile may
25 not be held in the home of a parent or guardian if the parent or guardian has been

ASSEMBLY BILL

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

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

5 938.207 (1) (b) The home of a relative, except that a juvenile may not be held
6 in the home of a relative if the relative has been convicted under s. 939.30 for the
7 solicitation to commit the first-degree intentional homicide of a parent of the
8 juvenile, and the conviction has not been reversed, set aside or vacated.

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

10 938.34 (3) (a) The home of a parent or other relative of the juvenile, except that
11 the court may not designate the home of a parent or other relative of the juvenile as
12 the juvenile's placement if the parent or other relative has been convicted under s.
13 939.30 for the solicitation to commit the first-degree intentional homicide of a parent
14 of the juvenile, and the conviction has not been reversed, set aside or vacated.

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

16 938.34 (3) (b) ~~A home which need not be~~ The home of a person who is not
17 required to be licensed if placement is for less than 30 days, except that the judge may
18 not designate the name of a person who is not required to be licensed as the juvenile's
19 placement if the person has been convicted under s. 939.30 for the solicitation to
20 commit the first-degree intentional homicide of a parent of the juvenile, and the
21 conviction has not been reversed, set aside or vacated.

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

ASSEMBLY BILL**SECTION 28**

1 938.355 (3) (a) If Except as provided in par. (b), if, after a hearing on the issue
2 with due notice to the parent or guardian, the court finds that it would be in the best
3 interest of the juvenile, the court may set reasonable rules of parental visitation.

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

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

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

17 **SECTION 30.** 938.357 (4d) of the statutes is created to read:

18 938.357 (4d) (a) The court may not change a juvenile's placement to a
19 placement in the home of a person who has been convicted under s. 939.30 for the
20 solicitation to commit the first-degree intentional homicide of a parent of the
21 juvenile, if the conviction has not been reversed, set aside or vacated.

22 (b) If a parent in whose home a juvenile is placed is convicted under s. 939.30
23 for the solicitation to commit the first-degree intentional homicide of the juvenile's
24 other parent, and the conviction has not been reversed, set aside or vacated, the court
25 shall change the juvenile's placement to a placement out of the home of the parent

ASSEMBLY BILL

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

5 **SECTION 31. Initial applicability.**

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

14

(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: 5/23/99

To: Senator Clausing

Relating to LRB drafting number: LRB-2628

Topic

Prohibit visitation or placement with person who solicits for first degree murder of a child's parent

Subject(s)

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

1. **JACKET** the draft for introduction Alice Clausing
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