

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/24/99**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

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

Extra Copies:

Pre Topic:

SDC:.....Walter - Caucus #1736 ,

Topic:

Placement or visitation with a child

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>
/?	malaigm 06/24/99	wjackson 06/24/99		_____			
/1			mclark 06/27/99	_____	lrb_docadmin 06/27/99		

FE Sent For:

<END>

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1?	malaigm	1 WLJ 6/24	MRC 6/26	MRC/KJR 6/24			

FE Sent For:

<END>

yes

Agency: Health and Family Services - Children and Family Services

caucus number 1736

duplicate flag:

duplicate with:

Other reference numbers:

LFB Sum #:

bill number/amendment number:

LRB draft #

LRB P-draft:

description: Enact engrossed AB 108 as amended by LRBa0451/1 relating to granting of visitation or physical placement with a child to a parent or other person who intentionally kills a parent of the child.

other notes

drafting instructions:

more instructions:

Agency: Health and Family Services - Children and Family Services

Number of Amendments: 1

**SENATE AMENDMENT ,
TO 1999 ASSEMBLY BILL 108**

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

2 ~~1.~~ Page 4, line 2: delete lines 2 and 3 and substitute "decision determines by
3 clear and convincing evidence that the placement".

4 ~~2.~~ Page 4, line 4: after "child" insert ". The person making the custody decision
5 shall consider the wishes of the child in making that determination".

6 ~~3.~~ Page 4, line 10: delete "that the child".

7 ~~4.~~ Page 4, line 11: delete that line.

8 ~~5.~~ Page 4, line 12: delete that line and substitute "by clear and convincing
9 evidence that the placement would be in the best interests of the child. The person
10 making the custody decision shall consider the wishes of the child in making that
11 determination".

12 ~~6.~~ Page 4, line 19: delete "that the child desires to".

1 ~~7.~~ Page 4, line 20: delete that line.

2 ~~8.~~ Page 4, line 21: delete “make such a decision and” and substitute “by clear
3 and convincing evidence”.

4 ~~9.~~ Page 4, line 22: after “child” insert “. The judge shall consider the wishes
5 of the child in making that determination”.

6 ~~10.~~ Page 5, line 5: delete lines 5 and 6 and substitute “unless the judge
7 determines by clear and convincing evidence that the placement would be in the”.

8 ~~11.~~ Page 5, line 7: after “child” insert “. The judge shall consider the wishes
9 of the child in making that determination”.

10 ~~12.~~ Page 6, line 4: delete “that the child”.

11 ~~13.~~ Page 6, line 5: delete that line.

12 ~~14.~~ Page 6, line 6: delete that line and substitute “by clear and convincing
13 evidence that the visitation would be in the best interests of the child. The court shall
14 consider the wishes of the child in making that determination.”.

15 ~~15.~~ Page 6, line 22: delete “that the child”.

16 ~~16.~~ Page 6, line 23: delete that line.

17 ~~17.~~ Page 6, line 24: delete that line and substitute “by clear and convincing
18 evidence that the placement would be in the best interests of the child. The court
19 shall consider the wishes of the child in making that determination.”.

20 ~~18.~~ Page 7, line 22: delete “that the child desires”.

21 ~~19.~~ Page 7, line 23: delete that line.

1 ~~20~~. Page 7, line 24: delete that line and substitute “by clear and convincing
2 evidence that the visitation or contact would be in the best interests of the child. The
3 court shall consider the wishes of the child in making that determination.”.

4 ~~21~~. Page 8, line 21: delete “that the child”.

5 ~~22~~. Page 8, line 22: delete that line.

6 ~~23~~. Page 8, line 23: delete that line and substitute “by clear and convincing
7 evidence that the visitation would be in the best interests of the child. The court shall
8 consider the wishes of the child in making that determination.”.

9 ~~24~~. Page 9, line 23: delete “that the child”.

10 ~~25~~. Page 9, line 24: delete that line.

11 ~~26~~. Page 9, line 25: delete that line and substitute “by clear and convincing
12 evidence that the visitation would be in the best interests of the child. The court shall
13 consider the wishes of the child in making that determination.”.

14 ~~27~~. Page 10, line 13: delete “that the child desires” and substitute “by clear
15 and convincing evidence”.

16 ~~28~~. Page 10, line 14: delete that line.

17 ~~29~~. Page 10, line 15: delete “and”.

18 ~~30~~. Page 10, line 15: after the period insert “The court shall consider the
19 wishes of the child in making the determination.”.

20 ~~31~~. Page 11, line 1: delete “that the child desires” and substitute “by clear and
21 convincing evidence”.

22 ~~32~~. Page 11, line 2: delete that line.

1 ~~33.~~ Page 11, line 3: delete “and”.

2 ~~34.~~ Page 11, line 3: after the period insert “The court shall consider the wishes
3 of the child in making the determination.”.

4 ~~35.~~ Page 11, line 14: delete lines 14 and 15 and substitute “determines by clear
5 and convincing evidence that the”.

6 ~~36.~~ Page 11, line 16: after the period insert “The court or family court
7 commissioner shall consider the wishes of the child in making the determination.”.

8 ~~37.~~ Page 12, line 1: delete “that the child desires” and substitute “by clear and
9 convincing evidence”.

10 ~~38.~~ Page 12, line 2: delete that line.

11 ~~39.~~ Page 12, line 3: delete “a decision and”.

12 ~~40.~~ Page 12, line 4: after the period insert “The court shall consider the wishes
13 of the child in making the determination.”.

14 ~~41.~~ Page 12, line 22: delete “that the child desires” and substitute “by clear
15 and convincing evidence”.

16 ~~42.~~ Page 12, line 23: delete that line.

17 ~~43.~~ Page 12, line 24: delete “make such a decision and”.

18 ~~44.~~ Page 12, line 25: after the period insert “The court shall consider the
19 wishes of the child in making the determination.”.

20 ~~45.~~ Page 13, line 10: delete “that the child desires” and substitute “by clear
21 and convincing evidence”.

22 ~~46.~~ Page 13, line 11: delete that line.

1 ~~47.~~ Page 13, line 12: delete “make such a decision and”.

2 ~~48.~~ Page 13, line 13: after the period insert “The court shall consider the
3 wishes of the child in making the determination.”.

4 ~~49.~~ Page 13, line 22: delete “that the child desires” and substitute “by clear
5 and convincing evidence”.

6 ~~50.~~ Page 13, line 23: delete that line.

7 ~~51.~~ Page 13, line 24: delete “mature to make such a decision and”.

8 ~~52.~~ Page 13, line 25: after the period insert “The court shall consider the
9 wishes of the child in making the determination.”.

10 ~~53.~~ Page 14, line 7: delete lines 7 and 8 and substitute “decision determines
11 by clear and convincing evidence that the placement”.

12 ~~54.~~ Page 14, line 9: after “juvenile” insert “. The person making the custody
13 decision shall consider the wishes of the juvenile in making that determination”.

14 ~~55.~~ Page 14, line 15: delete “that the”.

15 ~~56.~~ Page 14, line 16: delete that line.

16 ~~57.~~ Page 14, line 17: delete “make such a decision and” and substitute “by
17 clear and convincing evidence”.

18 ~~58.~~ Page 14, line 18: after “juvenile” insert “. The person making the custody
19 decision shall consider the wishes of the juvenile in making that determination”.

20 ~~59.~~ Page 14, line 25: delete “that the juvenile desires”.

21 ~~60.~~ Page 15, line 1: delete that line.

1999

Date (time) needed Soon

LRB b 1237 080 11

CAUCUS BUDGET AMENDMENT
[ONLY FOR CAUCUS]

GMM : Wlj :

See form AMENDMENTS — COMPONENTS & ITEMS.

CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1
TO 1999 ASSEMBLY BILL 133

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :





ENGROSSED 1999 ASSEMBLY BILL 108

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

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 kills a parent of a child from having visitation with
9 or physical placement of the child.

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 or 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, 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 or second-degree intentional homicide of the child's other parent. The prohibition on the granting of physical placement or visitation applies regardless of whether the conviction occurred before or occurs after the passage of the bill, and the requirement to modify any physical placement or visitation order applies regardless of when the conviction occurred or occurs and regardless of whether the order exists when the bill is passed or is granted after the passage of the bill. In all of these situations, however, the court may grant visitation or physical placement, or refuse to modify an order that grants visitation or physical placement, if the child wishes to have visitation or physical placement with the parent or other person and is mature enough to make such a decision and if the visitation or physical placement would be in the best interests of the child.

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

ENGROSSED ASSEMBLY BILL 108

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.

Page 645, Line 22: after that line insert:

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

1131ac (2)

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 of the first-degree intentional homicide, or under s. 940.05
5 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction

(Use 3 times)

ENGROSSED ASSEMBLY BILL 108

SECTION 1

by clear and convincing evidence

(Use twice)

The person making the custody decision shall consider the wishes of the child in making that determination

1131ff

SECTION 4. 48.207 (1) (b) of the statutes is amended to read:

48.207 (1) (b) The home of a relative, except that a child may not be held in the home of a relative if the 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 person making the custody decision determines that the child 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 child.

1131h

SECTION 4. 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. The judge shall consider the wishes of the child in making that determination

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

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

1131hd

* Page 64b, line 3: after that line insert:

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ENGROSSED ASSEMBLY BILL 108

by clear and convincing evidence

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. 940.01 of 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.

The judge shall consider the wishes of the child
in making that determination

8 SECTION 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 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. 940.01 of 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. 940.01 of 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

ENGROSSED ASSEMBLY BILL 108

by clear and convincing evidence

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.

The court shall consider the wishes of the child in making that determination

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 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.
10 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
11 intentional homicide, of a parent of the child, 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. 940.01 of the first-degree intentional homicide, or under s.
15 940.05 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 48.42 (1m) (b) of the statutes is amended to read:

Page 647, line 9: after that line insert:

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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 1131 pd (11) 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 1131 pg (11) 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. 940.01 of the
19 first-degree intentional homicide, 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.

by clear and convincing evidence

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.

The court shall consider the wishes of the child in making that determination

ENGROSSED ASSEMBLY BILL 108

1131 pm

1 SECTION 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.

1131 pp

5 SECTION 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. 940.01 of the first-degree
9 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, 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. 940.01 of the first-degree
14 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, 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.

by clear and convincing evidence

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~~

1192 p

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

The court shall consider the wishes of the child in making that determination

H. Page 654, line 25: after that line insert:
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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:

1192-r

9 SECTION 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. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
 14 2nd-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. 940.01 of the first-degree intentional
 18 homicide, or under s. 940.05 of the 2nd-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.

by clear and convincing evidence

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.

"

The court shall consider the wishes of the child in making that determination

ENGROSSED ASSEMBLY BILL 108

3054 m (6)

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.

3054 p (6)

7 SECTION 15. 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. 940.01
10 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 the conviction has not been
12 reversed, set aside or vacated.

by clear and convincing evidence

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.~~

3054 r (6)

16 SECTION 15. 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. 940.01 of the first-degree intentional homicide, or under
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.

• The court shall consider the wishes of the child
= in making ^{the} that determination

ENGROSSED ASSEMBLY BILL 108

SECTION 16m

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by clear and convincing evidence

The court shall consider the wishes of the child in making the determination

(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.

3054+ SECTION 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 (1) (am), 767.24 (1), (4) and (5), 767.51 (3) and 767.62 (4) (a) and except as provided in sub. (2), in an action under this chapter that affects a minor child, a court or family court commissioner 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 or family court commissioner determines that the child desires to have visitation or periods of physical placement with the parent and is sufficiently mature to make such a decision and that the visitation or periods of physical placement would be in the best interests of the child.

3064m SECTION 767.325 (4m) of the statutes is created to read:

767.325 (4m) DENIAL OF PHYSICAL PLACEMENT FOR KILLING OTHER PARENT. (a) Notwithstanding subs. (1) to (4), upon petition, motion or order to show cause by a party or on its own motion, a court shall modify a physical placement order by denying a parent physical placement with a 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.

The court or family court commissioner shall consider the wishes of the child in making the determination

Page 1415, June 19: after that June insert:

ENGROSSED ASSEMBLY BILL 108

by clear and convincing evidence that

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

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~~to have physical placement with the parent and is sufficiently mature to make such~~

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~~a decision and that physical placement with the parent would be in the best interests~~

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of the child.

The court shall consider the wishes of the child in making the determination

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

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880.155 (2) If one or both parents of a minor child are deceased and the child

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is in the custody of the surviving parent or any other person, a grandparent or

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stepparent of the child may petition for visitation privileges with respect to the child,

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whether or not the person with custody is married. The grandparent or stepparent

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may file the petition in a guardianship or temporary guardianship proceeding under

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this chapter that affects the minor child or may file the petition to commence an

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independent action under this chapter. The Except as provided in sub. (3m), the

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court may grant reasonable visitation privileges to the grandparent or stepparent if

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the surviving parent or other person who has custody of the child has notice of the

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hearing and if the court determines that visitation is in the best interest of the child.

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

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880.155 (3m) (a) Except as provided in par. (b), the court may not grant

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visitation privileges to a grandparent or stepparent under this section if the

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grandparent or stepparent has been convicted under s. 940.01 of the first-degree

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intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of

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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~~

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

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

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child.

ENGROSSED ASSEMBLY BILL 108

by clear and convincing evidence

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^{311m (b)} SECTION 20m. 880.155 (4m) of the statutes is created to read:

880.155 (4m) (a) If a grandparent or stepparent granted visitation privileges with respect to a child under this section is 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, the court shall modify the visitation order by denying visitation with the child upon petition, motion or order to show cause by a person having custody of the child, or upon the court's own motion, and upon notice to the grandparent or stepparent granted visitation privileges.

(b) Paragraph (a) does not apply if the court determines that ~~the child desires to have visitation with the grandparent or stepparent and is sufficiently mature to make such a decision and~~ that the visitation would be in the best interests of the child. ^{The court shall consider the wishes of the child in making the determination}

^{311p (2)} SECTION 21. 880.157 of the statutes is created to read:

880.157 Prohibiting visitation or physical placement if a parent kills other parent. (1) Except as provided in sub. (2), in an action under this chapter that affects a minor child, a court may not grant to a parent of the child 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 mature to make such a decision and~~ that visitation or periods of physical placement would be in the best interests of the child.

ENGROSSED ASSEMBLY BILL 108

by clear and
convincing evidence

3130 p (B)

SECTION 27. 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. 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, 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.

3130 r (C)

SECTION 27. 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. 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, 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.

3153 p (B)

SECTION 27. 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. 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, and the conviction has not been reversed, set aside or vacated, unless the court determines that the juvenile desires

The person making the custody decision shall consider the wishes of the juvenile in making that determination

Page 1435, line 2: after that line insert:

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by clear and convincing evidence

ENGROSSED ASSEMBLY BILL 108

3153r(6)

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.~~ The court shall consider the wishes of the juvenile in making
4 ~~that determination.~~

SECTION 24. 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. 940.01 of the first-degree
9 intentional homicide, or under s. 940.05 of the 2nd-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~~ court 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. (11)

3163k(6)

14 " SECTION 24. 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.

3163m(6)

19 SECTION 24. 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. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
23 2nd-degree intentional homicide, of the juvenile's other parent, and the conviction
24 has not been reversed, set aside or vacated.

Page 1435, line 8: after that line insert:

ENGROSSED ASSEMBLY BILL 108

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. 940.01 of the first-degree
 3 intentional homicide, or under s. 940.05 of the 2nd-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,~~

13 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. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
 17 2nd-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. 940.01 of the first-degree intentional homicide, or under s.
 21 940.05 of the 2nd-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

The court shall consider the wishes of the juvenile in making that determination

ENGROSSED ASSEMBLY BILL 108

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

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. *The court shall consider the wishes of the juvenile in making that determination*

7 **SECTION 29. Initial applicability.**

8 (1) ~~This act first applies~~ *apply* 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 or 2nd-degree intentional homicide occurred. *"*

16 (4) ~~PLACEMENT OR VISITATION WITH A PARENT WHO KILLS A PARENT~~ *(END)*

The treatment of section 3

48.207 (1)(a) and (b), 48.345 (3) (a) and (b), 48.357 (4d), 48.42 (1m)(b), (c) and (e), 48.925 (1)(intro) and (1m), 767.245 (1), (1m) and (6), 767.247, 767.325 (4m), 880.155 (2), (3m) and (4m), 880.157, 938.207 (1)(a) and (b), 938.34 (3) (a) and (b) and 938.357 (4d) of the statutes, and amendment of sections 48.355 (3), 48.428 (6) and 938.355 (3) of the statutes and the creation of sections 48.335 (3)(b), 48.428 (6)(b) and 938.355 (3)(b) of the statutes

Page 586, line 16: after that line insert:

INIT APP



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1237/1
GMM:wlj:mrc

SDC:.....Walter – Caucus #1736, Placement or visitation with a child

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 645, line 22: after that line insert:

3 “SECTION 1131c. 48.207 (1) (a) of the statutes is amended to read:

4 48.207 (1) (a) The home of a parent or guardian, except that a child may not
5 be held in the home of a parent or guardian if the parent or guardian has been
6 convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05
7 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction
8 has not been reversed, set aside or vacated, unless the person making the custody
9 decision determines by clear and convincing evidence that the placement would be

1 in the best interests of the child. The person making the custody decision shall
2 consider the wishes of the child in making that determination.

3 **SECTION 1131cf.** 48.207 (1) (b) of the statutes is amended to read:

4 48.207 (1) (b) The home of a relative, except that a child may not be held in the
5 home of a relative if the relative has been convicted under s. 940.01 of the
6 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
7 homicide, of a parent of the child, and the conviction has not been reversed, set aside
8 or vacated, unless the person making the custody decision determines by clear and
9 convincing evidence that the placement would be in the best interests of the child.
10 The person making the custody decision shall consider the wishes of the child in
11 making that determination.”.

12 **2.** Page 646, line 3: after that line insert:

13 **“SECTION 1131h.** 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. 940.01
17 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
18 intentional homicide, of a parent of the child, and the conviction has not been
19 reversed, set aside or vacated, unless the judge determines by clear and convincing
20 evidence that the placement would be in the best interests of the child. The judge
21 shall consider the wishes of the child in making that determination.

22 **SECTION 1131hd.** 48.345 (3) (b) of the statutes is amended to read:

23 48.345 (3) (b) ~~A home which need not be~~ The home of a person who is not
24 required to be licensed if placement is for less than 30 days, except that the judge may

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. 940.01 of 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 by clear and convincing evidence that the placement
6 would be in the best interests of the child. The judge shall consider the wishes of the
7 child in making that determination.

8 **SECTION 1131i.** 48.355 (3) of the statutes is renumbered 48.355 (3) (a) and
9 amended 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 1131id.** 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. 940.01 of 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. 940.01 of 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

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 by clear and
5 convincing evidence that the visitation would be in the best interests of the child.
6 The court shall consider the wishes of the child in making that determination.

7 **SECTION 1131ir.** 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.
10 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
11 intentional homicide, of a parent of the child, 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. 940.01 of the first-degree intentional homicide, or under s.
15 940.05 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 by clear and
23 convincing evidence that the placement would be in the best interests of the child.
24 The court shall consider the wishes of the child in making that determination.”

1 **3.** Page 647, line 9: after that line insert:

2 “**SECTION 1131p.** 48.42 (1m) (b) of the statutes is amended to read:

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

9 **SECTION 1131pd.** 48.42 (1m) (c) of the statutes is amended to read:

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

17 **SECTION 1131pg.** 48.42 (1m) (e) of the statutes is created to read:

18 48.42 (1m) (e) 1. Except as provided in subd. 2., the court shall issue a
19 temporary order and injunction prohibiting a parent of a child from visitation or
20 contact with the child if the parent has been convicted under s. 940.01 of the
21 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
22 homicide, of the child’s other parent, and the conviction has not been reversed, set
23 aside or vacated.

1 2. Subdivision 1. does not apply if the court determines by clear and convincing
2 evidence that the visitation or contact would be in the best interests of the child. The
3 court shall consider the wishes of the child in making that determination.

4 **SECTION 1131pm.** 48.428 (6) of the statutes is renumbered 48.428 (6) (a) and
5 amended to read:

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

8 **SECTION 1131pp.** 48.428 (6) (b) of the statutes is created to read:

9 48.428 (6) (b) 1. Except as provided in subd. 2., the court may not grant
10 visitation under par. (a) to a birth parent of a child who has been placed in sustaining
11 care if the birth parent has been convicted under s. 940.01 of the first-degree
12 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
13 the child's other birth parent, and the conviction has not been reversed, set aside or
14 vacated.

15 1m. Except as provided in subd. 2., if a birth parent who is granted visitation
16 rights with a child under par. (a) is convicted under s. 940.01 of the first-degree
17 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
18 the child's other birth parent, and the conviction has not been reversed, set aside or
19 vacated, the court shall issue an order prohibiting the birth parent from having
20 visitation with the child on petition of the child, the guardian or legal custodian of
21 the child, or the district attorney or corporation counsel of the county in which the
22 dispositional order was entered, or on the court's own motion, and on notice to the
23 birth parent.

1 2. Subdivisions 1. and 1m. do not apply if the court determines by clear and
2 convincing evidence that the visitation would be in the best interests of the child.
3 The court shall consider the wishes of the child in making that determination.”

4 **4.** Page 654, line 25: after that line insert:

5 “**SECTION 1192p.** 48.925 (1) (intro.) of the statutes is amended to read:

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

14 **SECTION 1192r.** 48.925 (1m) of the statutes is created to read:

15 48.925 (1m) (a) Except as provided in par. (b), the court may not grant
16 visitation rights under sub. (1) to a relative who has maintained a relationship
17 similar to a parent-child relationship with a child if the relative has been convicted
18 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
19 2nd-degree intentional homicide, of a parent of the child, and the conviction has not
20 been reversed, set aside or vacated.

21 (am) Except as provided in par. (b), if a relative who is granted visitation rights
22 with a child under sub. (1) is convicted under s. 940.01 of the first-degree intentional
23 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of
24 the child, and the conviction has not been reversed, set aside or vacated, the court

1 shall issue an order prohibiting the relative from having visitation with the child on
2 petition of the child or the parent, guardian or legal custodian of the child, or on the
3 court's own motion, and on notice to the relative.

4 (b) Paragraphs (a) and (am) do not apply if the court determines by clear and
5 convincing evidence that the visitation would be in the best interests of the child.
6 The court shall consider the wishes of the child in making that determination.”

7 **5.** Page 1409, line 12: after that line insert:

8 “**SECTION 3054m.** 767.245 (1) of the statutes is amended to read:

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

14 **SECTION 3054p.** 767.245 (1m) of the statutes is created to read:

15 767.245 (1m) (a) Except as provided in par. (b), the court may not grant
16 visitation rights under sub. (1) to a person who has been convicted under s. 940.01
17 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
18 intentional homicide, of a parent of the child, and the conviction has not been
19 reversed, set aside or vacated.

20 (b) Paragraph (a) does not apply if the court determines by clear and convincing
21 evidence that the visitation would be in the best interests of the child. The court shall
22 consider the wishes of the child in making the determination.

23 **SECTION 3054r.** 767.245 (6) of the statutes is created to read:

1 767.245 (6) (a) If a person granted visitation rights with a child under this
2 section is convicted under s. 940.01 of the first-degree intentional homicide, or under
3 s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the
4 conviction has not been reversed, set aside or vacated, the court shall modify the
5 visitation order by denying visitation with the child upon petition, motion or order
6 to show cause by a parent or guardian of the child, or upon the court's own motion,
7 and upon notice to the person granted visitation rights.

8 (b) Paragraph (a) does not apply if the court determines by clear and convincing
9 evidence that the visitation would be in the best interests of the child. The court shall
10 consider the wishes of the child in making that determination.

11 **SECTION 3054t.** 767.247 of the statutes is created to read:

12 **767.247 Prohibiting visitation or physical placement if a parent kills**
13 **other parent.** (1) Notwithstanding ss. 767.23 (1) (am), 767.24 (1), (4) and (5),
14 767.51 (3) and 767.62 (4) (a) and except as provided in sub. (2), in an action under this
15 chapter that affects a minor child, a court or family court commissioner may not
16 grant to the child's parent visitation or physical placement rights with the child if the
17 parent has been convicted under s. 940.01 of the first-degree intentional homicide,
18 or under s. 940.05 of the 2nd-degree intentional homicide, of the child's other parent,
19 and the conviction has not been reversed, set aside or vacated.

20 (2) Subsection (1) does not apply if the court or family court commissioner
21 determines by clear and convincing evidence that the visitation or periods of physical
22 placement would be in the best interests of the child. The court or family court
23 commissioner shall consider the wishes of the child in making the determination.”.

24 **6.** Page 1415, line 19: after that line insert:

1 **“SECTION 3064m.** 767.325 (4m) of the statutes is created to read:

2 **767.325 (4m) DENIAL OF PHYSICAL PLACEMENT FOR KILLING OTHER PARENT.** (a)

3 Notwithstanding subs. (1) to (4), upon petition, motion or order to show cause by a
4 party or on its own motion, a court shall modify a physical placement order by
5 denying a parent physical placement with a child if the parent has been convicted
6 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
7 2nd-degree intentional homicide, of the child’s other parent, and the conviction has
8 not been reversed, set aside or vacated.

9 (b) Paragraph (a) does not apply if the court determines by clear and convincing
10 evidence that physical placement with the parent would be in the best interests of
11 the child. The court shall consider the wishes of the child in making the
12 determination.”.

13 **7.** Page 1431, line 11: after that line insert:

14 **“SECTION 3111g.** 880.155 (2) of the statutes is amended to read:

15 **880.155 (2)** If one or both parents of a minor child are deceased and the child
16 is in the custody of the surviving parent or any other person, a grandparent or
17 stepparent of the child may petition for visitation privileges with respect to the child,
18 whether or not the person with custody is married. The grandparent or stepparent
19 may file the petition in a guardianship or temporary guardianship proceeding under
20 this chapter that affects the minor child or may file the petition to commence an
21 independent action under this chapter. The Except as provided in sub. (3m), the
22 court may grant reasonable visitation privileges to the grandparent or stepparent if
23 the surviving parent or other person who has custody of the child has notice of the
24 hearing and if the court determines that visitation is in the best interest of the child.

1 **SECTION 3111j.** 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 by clear and convincing
8 evidence that the visitation would be in the best interests of the child. The court shall
9 consider the wishes of the child in making the determination.

10 **SECTION 3111m.** 880.155 (4m) of the statutes is created to read:

11 880.155 (4m) (a) If a grandparent or stepparent granted visitation privileges
12 with respect to a child under this section is convicted under s. 940.01 of the
13 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
14 homicide, of a parent of the child, and the conviction has not been reversed, set aside
15 or vacated, the court shall modify the visitation order by denying visitation with the
16 child upon petition, motion or order to show cause by a person having custody of the
17 child, or upon the court's own motion, and upon notice to the grandparent or
18 stepparent granted visitation privileges.

19 (b) Paragraph (a) does not apply if the court determines by clear and convincing
20 evidence that the visitation would be in the best interests of the child. The court shall
21 consider the wishes of the child in making the determination.

22 **SECTION 3111p.** 880.157 of the statutes is created to read:

23 **880.157 Prohibiting visitation or physical placement if a parent kills**
24 **other parent.** (1) Except as provided in sub. (2), in an action under this chapter
25 that affects a minor child, a court may not grant to a parent of the child visitation or

1 physical placement rights with the child if the parent 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 the child's other parent, and the conviction has not been
4 reversed, set aside or vacated.

5 (2) Subsection (1) does not apply if the court determines by clear and
6 convincing evidence that visitation or periods of physical placement would be in the
7 best interests of the child. The court shall consider the wishes of the child in making
8 the determination.”.

9 **8.** Page 1431, line 22: after that line insert:

10 “**SECTION 3130p.** 938.207 (1) (a) of the statutes is amended to read:

11 938.207 (1) (a) The home of a parent or guardian, except that a juvenile may
12 not be held in the home of a parent or guardian if the parent or guardian has been
13 convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05
14 of the 2nd-degree intentional homicide, of a parent of the juvenile, and the conviction
15 has not been reversed, set aside or vacated, unless the person making the custody
16 decision determines by clear and convincing evidence that the placement would be
17 in the best interests of the juvenile. The person making the custody decision shall
18 consider the wishes of the juvenile in making that determination.

19 **SECTION 3130r.** 938.207 (1) (b) of the statutes is amended to read:

20 938.207 (1) (b) The home of a relative, except that a juvenile may not be held
21 in the home of a relative if the relative has been convicted under s. 940.01 of the
22 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional
23 homicide, of a parent of the juvenile, and the conviction has not been reversed, set
24 aside or vacated, unless the person making the custody decision determines by clear

1 and convincing evidence that the placement would be in the best interests of the
2 juvenile. The person making the custody decision shall consider the wishes of the
3 juvenile in making that determination.”.

4 **9.** Page 1435, line 2: after that line insert:

5 “SECTION 3153p. 938.34 (3) (a) of the statutes is amended to read:

6 938.34 (3) (a) The home of a parent or other relative of the juvenile, except that
7 the court may not designate the home of a parent or other relative of the juvenile as
8 the juvenile’s placement if the parent or other relative has been convicted under s.
9 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree
10 intentional homicide, of a parent of the juvenile, and the conviction has not been
11 reversed, set aside or vacated, unless the court determines by clear and convincing
12 evidence that the placement would be in the best interests of the juvenile. The court
13 shall consider the wishes of the juvenile in making that determination.

14 SECTION 3153r. 938.34 (3) (b) of the statutes is amended to read:

15 938.34 (3) (b) ~~A home which need not be~~ The home of a person who is not
16 required to be licensed if placement is for less than 30 days, except that the court may
17 not designate the name of a person who is not required to be licensed as the juvenile’s
18 placement if the person has been convicted under s. 940.01 of the first-degree
19 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
20 a parent of the juvenile, and the conviction has not been reversed, set aside or
21 vacated, unless the court determines by clear and convincing evidence that the
22 placement would be in the best interests of the juvenile. The court shall consider the
23 wishes of the juvenile in making that determination.”.

24 **10.** Page 1435, line 8: after that line insert:

1 **SECTION 3163k.** 938.355 (3) of the statutes is renumbered 938.355 (3) (a) and
2 amended to read:

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

6 **SECTION 3163m.** 938.355 (3) (b) of the statutes is created to read:

7 938.355 (3) (b) 1. Except as provided in subd. 2., the court may not grant
8 visitation under par. (a) to a parent of a juvenile if the parent has been convicted
9 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
10 2nd-degree intentional homicide, of the juvenile's other parent, and the conviction
11 has not been reversed, set aside or vacated.

12 1m. Except as provided in subd. 2., if a parent who is granted visitation rights
13 with a juvenile under par. (a) is convicted under s. 940.01 of the first-degree
14 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of
15 the juvenile's other parent, and the conviction has not been reversed, set aside or
16 vacated, the court shall issue an order prohibiting the parent from having visitation
17 with the juvenile on petition of the juvenile, the guardian or legal custodian of the
18 juvenile, a person or agency bound by the dispositional order or the district attorney
19 or corporation counsel of the county in which the dispositional order was entered, or
20 on the court's own motion, and on notice to the parent.

21 2. Subdivisions 1. and 1m. do not apply if the court determines by clear and
22 convincing evidence that the visitation would be in the best interests of the juvenile.
23 The court shall consider the wishes of the juvenile in making that determination.

24 **SECTION 3165k.** 938.357 (4d) of the statutes is created to read:

1 938.357 (4d) (a) Except as provided in par. (b), the court may not change a
2 juvenile's placement to a placement in the home of a person who has been convicted
3 under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the
4 2nd-degree intentional homicide, of a parent of the juvenile, if the conviction has not
5 been reversed, set aside or vacated.

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

15 (b) Paragraphs (a) and (am) do not apply if the court determines by clear and
16 convincing evidence that the placement would be in the best interests of the juvenile.
17 The court shall consider the wishes of the juvenile in making that determination.”.

18 **11.** Page 1586, line 16: after that line insert:

19 “(4t) PLACEMENT OR VISITATION WITH A PARENT WHO KILLS A PARENT. The treatment
20 of sections 48.207 (1) (a) and (b), 48.345 (3) (a) and (b), 48.357 (4d), 48.42 (1m) (b),
21 (c) and (e), 48.925 (1) (intro.) and (1m), 767.245 (1), (1m) and (6), 767.247, 767.325
22 (4m), 880.155 (2), (3m) and (4m), 880.157, 938.207 (1) (a) and (b), 938.34 (3) (a) and
23 (b) and 938.357 (4d) of the statutes, the renumbering and amendment of sections
24 48.355 (3), 48.428 (6) and 938.355 (3) of the statutes and the creation of sections

1 48.355 (3) (b), 48.428 (6) (b) and 938.355 (3) (b) of the statutes first apply to orders
2 for visitation or physical placement, and to orders modifying or revising visitation
3 or physical placement orders, that are granted on the effective date of this
4 subsection; to petitions to restrain and enjoin visitation and contact with a child that
5 are filed on the effective date of this subsection; and to orders of the juvenile court
6 placing a child in or removing a child from the home of a parent, guardian or relative
7 or granting or prohibiting parental visitation granted on the effective date of this
8 subsection; regardless of when the conviction of first-degree or 2nd-degree
9 intentional homicide occurred.”

10 (END)