

1999 DRAFTING REQUEST

Bill

Received: 10/22/1999

Received By: malaigm

Wanted: As time permits

Identical to LRB:

For: Jean Hundertmark (608) 266-3794

By/Representing: Jason

This file may be shown to any legislator: NO

Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Children - miscellaneous

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Description of relatives--by blood, adoption or marriage

Instructions:

See Attached--specify that being "related" includes being related by adoption as well as by blood or marriage

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			mclark 11/11/1999	_____	lrb_docadmin 11/11/1999	lrb_docadmin 11/12/1999	

FE Sent For:

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RAC JK MDK PJK
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WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536

Telephone: (608) 266-1304

Fax: (608) 266-3830

Email: leg.council@legis.state.wi.us

DATE: January 22, 1999
TO: REPRESENTATIVE DAVID WARD
FROM: Joyce L. Kiel, Senior Staff Attorney
SUBJECT: Statutes Which Do Not Refer to a Relative by Adoption

This memorandum, prepared at your request, provides general background information about references to relatives in the statutes. It then lists statutes which refer to a relationship by blood (or a similar term) but which do not also refer to a relationship by adoption.

A. GENERAL BACKGROUND

1. The Children's Code

As you know, 1997 Wisconsin Act 104 changed the definition of a "relative" in ch. 48, Stats. (the Children's Code), to specify that for the persons specified in that definition (that is, parent, grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle or aunt), the relationship must be by blood, marriage or adoption. Prior to amendment, this definition specified that the relationship "may be by consanguinity¹ or direct affinity²" but did not refer to adoption. However, the definition of a "relative" amended by Act 104 applies only in ch. 48.

2. Statutes Outside the Children's Code

The statutes outside ch. 48 use varying approaches in referring to relationships. Many statutes refer to a relationship by blood, adoption or marriage. For example, s. 49.453 (1) (h),

blood = 1. "Consanguinity" is not defined in Wisconsin statutes. It is defined in Black's Law Dictionary, abridged 6th ed., as "kinship; blood relationship; the connection or relation of persons descended from the same stock or common ancestor."

2. "Direct affinity" is not defined in Wisconsin statutes. It is defined in Black's Law Dictionary, abridged 6th ed., as the relation "subsisting between the husband and his wife's relations by blood, or between the wife and the husband's relations by blood."

∴ "marriage" = wife's relatives by blood or adoption

Stats., defines a "relative" for purposes of the divestment of assets provisions relating to Medical Assistance as a person who is related by "blood, marriage or adoption"; s. 71.05 (6) (b) 25., Stats., relates to taxation of gains for property sold to someone related to the seller "by blood, marriage or adoption"; and s. 154.03 (1) (a), Stats., prohibits a person from witnessing a living will if the person is related to the declarant by "blood, marriage or adoption."

In contrast, other statutes outside ch. 48 refer to a relationship by blood (or in some cases consanguinity) or by blood or marriage (or in some cases consanguinity or direct affinity) but do not refer to adoption. These statutes are set forth in Section B. 1., below.

Moreover, other statutes outside ch. 48 refer to a relationship by lineal descent or ascent and use varying approaches as to whether there is a reference to adoption. These statutes are discussed in Section B. 2., below.

3. Legislative Intent

Questions may be raised regarding whether a statute that refers only to a relationship by blood (or blood and marriage) includes a relationship by adoption, even though a literal reading of such a statute suggests that it does not. As you know, this very issue arose in the case of *In re the Interest of and the Adoption of Abigail M.*, 586 N.W.2d 21 (Ct. App. 1998), which was recently decided by the Wisconsin Court of Appeals. At issue in that case was whether s. 48.90 (1) (a), 1995-96 Stats., which allowed an expedited adoption filing process for certain individuals, including a "relative of the child by blood," also applied to a relative by adoption.³ As discussed below, the *Abigail M.* court held that for purposes of s. 48.90 (1) (a), 1995-96 Stats., the reference to a "relative by blood" also included a relative by adoption.

However, this holding technically applies only to s. 48.90 (1) (a), 1995-96 Stats., and a court may or may not reach the same conclusion with respect to other statutes which refer to a relative by blood but not a relative by adoption. If this question were litigated with regard to a particular statute, a court would attempt to determine legislative intent with respect to that statute. As discussed below, there likely would be an argument that a relative by blood includes a relative by adoption and a counterargument that a relative by blood does not include a relative by adoption.

a. Argument That a Relative by Blood Includes a Relative by Adoption

On the one hand, it could be argued that the Legislature intended that any reference to a relative by blood includes a relative by adoption unless the statute specifies that it does not. This argument is based on s. 48.92, Stats., which relates to the effect of adoption and provides as follows:

48.92 Effect of adoption. (1) After the order of adoption is entered the relation of parent and child and all the rights, duties

3. Section 48.90 (1) (a), Stats., was amended by 1997 Wisconsin Act 104 to provide that the expedited adoption filing process was applicable to a relative of the child by blood or by adoption. The *Abigail M.* court was analyzing the prior law.

and other legal consequences of the natural relation of child and parent thereafter exists between the adopted person and the adoptive parents.

(2) After the order of adoption is entered the relationship of parent and child between the adopted person and the adopted person's birth parents, unless the birth parent is the spouse of the adoptive parent, shall be completely altered and all the rights, duties and other legal consequences of the relationship shall cease to exist. Notwithstanding the extinction of all parental rights under this subsection, a court may order reasonable visitation under s. 48.925 [relating to visitation rights of certain persons].

(3) Rights of inheritance by, from and through an adopted child are governed by ss. 854.20 and 854.21.⁴

(4) Nothing in this section shall be construed to abrogate the right of the department to make payments to adoptive families under s. 48.48 (12) [relating to adoption assistance payments]. (Emphasis added.)

Based on this, it could be argued that the "natural relation" of parent and child that subsequently exists is the equivalent of a relationship by blood whenever a relationship by blood is referred to in the statutes. This was essentially the holding in *Abigail M.* with respect to s. 48.90 (1) (a), 1995-96 Stats. In that case, Suzie and Scott were born to different parents and then adopted by the same parents when they were children. After Suzie and her husband died, Scott petitioned to adopt Suzie's child Abigail (to whom he was related through adoption). One of the questions before the court was whether Scott could use the expedited adoption filing process in s. 48.90 (1) (a), 1995-96 Stats., which applied to certain individuals, including a "relative of the child by blood." The court indicated that:

We think the intent of sec. 48.92, Stats., from its language is to effect upon adoption a complete substitution of rights, duties, and other legal consequences of the natural relation of child and parent *and kin* with those same rights, duties, and legal consequences between the adopted person and adoptive parents *and kin*. [*Adoption of Abigail M.*, 586 N.W.2d at 25, quoting *Estate of Topel*, 32 Wis. 2d 223, 227, 145 N.W.2d 162, 164 (1966) (emphasis added).]

After discussing the all-pervasive goal of the Children's Code of promoting the best interests of the child, the *Abigail M.* court concluded that:

4. The status of adopted persons for purposes of inheritance and transfers under wills or other governing instruments that transfer property at death is governed by ss. 854.20 and 854.21, Stats. [s. 851.50, Stats.] A copy of ss. 854.20 and 854.21, Stats., is attached. These statutes clearly distinguish between relatives by blood and relatives by adoption. They also distinguish between individuals adopted as adults and individuals adopted as children.

... the case law interpreting the Children's Code has consistently held that an adopted child is conferred the same rights, duties, and other legal consequences as a natural-born child. Accordingly, to harmonize any perceived conflict between s. 48.92, Stats., and 48.90 (1) (a), Stats., we must read s. 48.90 (1) (a)'s "related by blood" requirement to include a relative by adoption. [*Adoption of Abigail M.*, 586 N.W.2d at 28.]

Thus, the court held that Scott could use the expedited adoption filing process under s. 48.90 (1) (a), 1995-96 Stats. It could be argued that, based on the reasoning of the *Abigail M.* court, a statute which refers to a relative by blood, but not by adoption, also applies to a relative by adoption.

b. Argument That a Relative by Blood Does Not Include a Relative by Adoption

However, no appellate level court in Wisconsin has held that a relative by adoption is to be treated the same as a relative by blood with respect to all issues. If a court were presented with a case which involved interpretation of a provision outside the Children's Code, the court would not invoke the goal of the Children's Code of promoting the best interests of the child, as did the *Abigail M.* court. Thus, the court may or may not reach the same conclusion as the *Abigail M.* court.

Moreover, if a court were presented with a case involving a relative by adoption when the person had been *adopted as an adult*, the court may or may not reach the same decision as the *Abigail M.* court. Chapter 882, Stats., allows one adult to adopt another adult, thus establishing a legal relationship between the two individuals. Section 882.04, Stats., provides that if an order to adopt an adult is entered, it has the same legal consequence as an order of adoption of a child under ch. 48. As noted above, s. 48.92 (1), Stats., provides that "[a]fter the order of adoption is entered the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent thereafter exists *between the adopted person and the adoptive parents.*" (Emphasis added.)

Section 48.92, Stats., does not specify what, if any, relationship is established with respect of their "kin." As noted above, the courts in recent years have construed s. 48.92, Stats., as also establishing a relationship with "kin." However, the cases considered by these courts appear to have involved individuals who were adopted as children; there appear to be no published decisions relating to whether the established relationship extends to "kin" in the same way when individuals are adopted as adults.

As an historical note, the Wisconsin Supreme Court noted in 1966 that:

The legislative policy evidenced by sec. 48.92 is a change in thinking from the older view that adoption was only a type of contractual affiliation between the parties and that while the adoptive parents could make for themselves an heir by adoption, they could not by that means make one for their kindred. This view is expressed in the *Estate of Boyle* (1955) (citations omitted); *Estate*

of *Bradley* (1925) (citations omitted); *Estate of Uihlein* (1955) (citations omitted). The public attitude toward adoption and its acceptance has greatly changed in recent years. [*Estate of Topel*, 145 N.W.2d at 165.]

Nonetheless, it is not clear that the public attitude toward adoption has changed in a similar way when the case involves an individual who was adopted as an adult. In fact, special provisions apply under the laws relating to inheritance and transfers under wills or other governing instruments that transfer property at death with respect to persons who are adopted as adults, and they differ markedly from those which apply to persons who are adopted as children. [See ss. 854.20 to 854.21, Stats. (copy attached).] It may be that, given a particular statute to interpret in a case involving an individual who was adopted as an adult, a court would not interpret a reference to a relative by blood as including a relative by adoption as did the *Abigail M.* court.

Another point could be raised as an argument that a relative by blood does not include a relative by adoption. As noted above, some statutes refer to a relationship by blood, while other statutes refer to a relationship by blood or by adoption. The latter approach is unnecessary if a reference to a relative by blood is construed to already include a relative by adoption. Because of the variations in the statutes, it could be argued that the Legislature understood the distinction between a relationship by blood and a relationship by adoption and referred to a relationship by adoption only when it was the legislative intent to do so. Thus, it could be argued that a statutory reference to a relative by blood does not include a relative by adoption.

c. Comment

Technically, a court decision interpreting a statute (for example, the *Abigail M.* decision interpreting s. 48.90 (1) (a), 1995-96 Stats.) applies only to that particular statute. This means that statutes which have not been the subject of a court decision and which refer to a relationship by blood, but not a relationship by adoption, may be considered to be ambiguous. While there may be a strong argument that a reference to a relationship by blood includes a relationship by adoption, there is some level of uncertainty.

B. STATUTES WHICH DO NOT REFER TO A RELATIONSHIP BY ADOPTION

1. Statutes Which Refer to a Relationship by Blood

You asked for information about the statutes which refer to a relationship by blood (or consanguinity) or by blood or marriage (or consanguinity or direct affinity) but which do not refer to a relationship by adoption. They are as follows:⁵

5. This section does not include statutes relating to inheritance and transfers under wills or other governing instruments that transfer property at death which distinguish between relatives by blood and relatives by adoption.

a. Section 40.08 (9), Stats., relating to benefit assignments under the public employe trust fund, provides that:

Who is related to the incompetent person another person related by blood or adoption

40.08 (9) PAYMENTS OF BENEFITS TO MINORS AND INCOMPETENTS. In any case in which a benefit amount becomes payable to a minor or to a person adjudged mentally incompetent, the department may waive guardianship proceedings, and pay the benefit to the person providing for or caring for the minor, or to the spouse, parent or ~~blood relative~~ providing for or caring for the incompetent person. (Emphasis added.)

b. Section 46.95 (1) (b), Stats., relating to domestic abuse grants, provides that:

46.95 (1) (b) "Family member" means a spouse, a parent, a child or a person related by consanguinity to another person. (Emphasis added.)

c. Sections 48.01 (2) (b) and 48.981 (1) (cs) 2. and (ct) 2., Stats., defining "American Indian child," "Indian child" and "unborn Indian child," respectively, under certain provisions of the Children's Code, refer to a child who is:

do not change

48.01 (2) (b) Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe. (Emphasis added.)

48.981 (1) (cs) 2. As a person who is both eligible for membership in the tribe or band and is the biological child of a member of the tribe or band. (Emphasis added.)

48.981 (1) (ct) 2. As a person who is both eligible for membership in the tribe or band and the biological child of a member of the tribe or band. (Emphasis added.)

It is the apparent intent of these definitions to comply with the federal Indian Child Welfare Act (ICWA) which supersedes ch. 48 in any child custody proceeding governed by ICWA. ICWA defines an "Indian child," in pertinent part, by referring to a child who is "eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe." [25 U.S.C. s. 1903 (5) (b) (emphasis added).] Because these Wisconsin statutes comply with federal law, there appears to be no need to change these statutes.

d. Section 51.20 (9) (a), Stats., relating to the examination of a person subject to an involuntary commitment for treatment under the mental health act, provides that:

51.20 (9) (a) If the court finds after the hearing that there is probable cause to believe the allegations under sub. (1), it shall appoint 2 licensed physicians specializing in psychiatry, or one licensed physician and one licensed psychologist, or 2 licensed

physicians one of whom shall have specialized training in psychiatry, if available, or 2 physicians, to personally examine the subject individual. . . . *The examiners may not be related to the subject individual by blood or marriage*, and may have no interest in his or her property (Emphasis added.)

or adoption

c. Section 103.90 (3) (a), Stats., defines "migrant labor camp" for purposes of employment regulation as meaning the site and all structures maintained as living quarters by, for or under the control and supervision of any person for any migrant worker and for:

103.90 (3) (a) 2. Any other person who is *not related by blood or marriage* to his or her employer and who occasionally or habitually leaves an established place of residence to travel to another locality to accept seasonal employment in the planting, cultivating, raising, harvesting, handling, drying, packing, packaging, processing, freezing, grading or storing of any agricultural or horticultural commodity in its unmanufactured state. (Emphasis added.)

or adoption

f. Section 106.04 (1m) (q), Stats., defines "relative" for purposes of the statute relating to unlawful discrimination in housing and provides that:

106.04 (1m) (q) "Relative" means a parent, grandparent, great-grandparent, stepparent, step grandparent, brother, sister, child, stepchild, grandchild, step grandchild, greatgrandchild, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepbrother, step-sister, half brother or half sister or any other person *related by marriage, consanguinity or affinity*. (Emphasis added.)

or adoption

It is unclear why this statute refers to both marriage and affinity. It appears that the reference to one of the two terms could be deleted.

g. Section 146.34 (1) (j), Stats., defines "relative" for purposes of the statute relating to donation of bone marrow by a minor and provides that:

146.34 (1) (j) "Relative" means a parent, grandparent, stepparent, brother, sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree of kinship as computed under s. 852.03 (2), 1995 stats. *This relationship may be by consanguinity or direct affinity*. (Emphasis added.)

or adoption

Section 146.34 (5) (a), Stats., uses the defined term by providing that a "relative" of the prospective minor donor may file a petition with the court to prohibit giving consent to donation of bone marrow or the performance of the bone marrow transplant.

h. Section 196.52 (1) (g), Stats., defines "affiliated interests" of a public utility for purposes of the statute relating to contracts with affiliates that are filed and subject to the control of the Public Service Commission and refers, in pertinent part, to:

by blood,
marriage or
adoption

196.52 (1) (g) Any other person whom the commission determines as a matter of fact after investigation and hearing to be actually exercising substantial influence over the policies and actions of the public utility in conjunction with one or more other *persons with whom they are related by ownership or blood relationship* or by action in concert that together they are affiliated with such public utility for the purpose of this section, even though no one of them alone is so affiliated under pars. (a) to (f). (Emphasis added.)

i. Section 243.10 (1), Stats., provides a form for the Wisconsin basic power of attorney for finances and property and requires, in pertinent part, that a witness not be a relative by blood or marriage to the principal who signs the document. It provides a form as follows:

243.10 (1) FORM. The following is the form:

**WISCONSIN BASIC POWER OF ATTORNEY
FOR FINANCES AND PROPERTY**

...

or adoption

By signing as a witness, I am acknowledging the signature of the principal who signed in my presence and the presence of the other witness, and the fact that he or she has stated that this power of attorney reflects his or her wishes and is being executed voluntarily. I believe him or her to be of sound mind and capable of creating this power of attorney. *I am not related to him or her by blood or marriage*, and, to the best of my knowledge, I am not entitled to any portion of his or her estate under his or her will (Emphasis added.)

j. Section 252.15 (1) (eg), Stats., defines "relative" for purposes of the statute on restrictions on the use of a test for human immunodeficiency virus (HIV) and provides that:

or adoption

252.15 (1) (eg) "Relative" means a spouse, parent, grandparent, stepparent, brother, sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree of kinship as computed under s. 852.03 (2), 1995 stats. *This relationship may be by consanguinity or direct affinity.* (Emphasis added.)

Section 252.15 (2) (a) 4., Stats., uses the defined term by providing that the closest living "relative" of a person may give consent to HIV testing if the person to be tested is unable to give consent because he or she is unable to communicate due to a medical condition.

k. Section 421.301 (32) (d) and (33) (d), Stats., includes in the definition of "person related to" for purposes of the Wisconsin Consumer Act the following:

421.301 (32) (d) *Any other relative, by blood or marriage*, of the natural person or that person's spouse who shares the same home with the natural person. (Emphasis added.)

421.301 (33) (d) *A relative by blood or marriage* of a person related to the organization who shares the same home with that person. (Emphasis added.)

The Wisconsin Consumer Act then uses the definition in various provisions, such as prohibiting certain debt collection practices such as threatening or harassing the customer or a "person related to" the customer. The definition of "person related to" in s. 421.301 (32) and (33), Stats., is also incorporated by cross-reference in s. 138.052 (1) (d), Stats., relating to residential mortgage loans and affects provisions relating to fees and waiver of certain interest payments for persons who are not related to the lender.

l. Section 615.03 (1), Stats., provides that no person may issue an annuity unless certain exceptions apply. One of those exceptions is s. 615.03 (1) (c), Stats., which permits an annuity to be issued by:

615.03 (1) (c) A natural person who issues such an annuity to a *relative by blood or marriage* within the 3rd degree of kinship as computed according to s. 852.03 (2), 1995 stats. (Emphasis added.)

m. Section 631.07 (3), Stats., provides that a life or disability insurance policy may be taken out in certain circumstances without the consent of the insured. One of those circumstances is set forth in s. 631.07 (3) (a) 5., Stats., which provides that:

631.07 (3) (a) 5. The commissioner may promulgate rules permitting issuance of insurance for a limited term on the life or health of a person serving outside the continental United States in the public service of the United States, provided the policyholder is *closely related by blood or by marriage to the person* whose life or health is insured. (Emphasis added.)

n. Section 632.32 (6), Stats., prohibits certain provisions in a motor vehicle insurance policy. One of those provisions is set forth in s. 632.32 (6) (b) 1., Stats., which provides that no policy may exclude from the coverage afforded or the benefits provided:

632.32 (6) (b) 1. Persons *related by blood or marriage* to the insured. (Emphasis added.)

o. Section 765.03 (1), Stats., relates to who shall not marry. It provides that:

765.03 (1) No marriage shall be contracted while either of the parties has a husband or wife living, nor between persons who are

?
Leave alone?

YPS

Con'tk day

nearer of kin than 2nd cousins except that marriage may be contracted between first cousins where the female has attained the age of 55 years or where either party, at the time of application for a marriage license, submits an affidavit signed by a physician stating that either party is permanently sterile. *Relationship under this section shall be computed by the rule of the civil law, whether the parties to the marriage are of the half or of the whole blood.* A marriage may not be contracted if either party has such want of understanding as renders him or her incapable of assenting to marriage. (Emphasis added.)

It is arguable that a computation "by the rule of civil law" already includes relationship by adoption, but this is not specified in the statute.

p. Section 767.08, Stats., provides that certain individuals may file an action to compel a person to provide legally required child support, including a nonlegally responsible relative who is assuming responsibility for care of the child. Section 767.08 (1) (b), Stats., defines a "relative" for this purpose as follows:

767.08 (1) (b) "Relative" means any person *connected with a child by consanguinity or direct affinity.* (Emphasis added.)

q. Section 805.08 (1), Stats., relates to the qualification and examination of jurors and provides that:

805.08 (1) QUALIFICATIONS, EXAMINATION. The court shall examine on oath each person who is called as a juror to discover whether the juror is *related by blood or marriage* to any party or to any attorney appearing in the case, or has any financial interest in the case, or has expressed or formed any opinion, or is aware of any bias or prejudice in the case. If a juror is not indifferent in the case, the juror shall be excused. Any party objecting for cause to a juror may introduce evidence in support of the objection. This section shall not be construed as abridging in any manner the right of either party to supplement the court's examination of any person as to qualifications, but such examination shall not be repetitious or based upon hypothetical questions. (Emphasis added.)

r. Section 813.12, Stats., relates to domestic abuse restraining orders and injunctions and defines "domestic abuse," in pertinent part, as certain activities engaged in by an adult family member against another adult family member. A "family member" is defined for this purpose in s. 813.12 (1) (b), Stats., which provides that:

813.12 (1) (b) "Family member" means a spouse, a parent, a child or a *person related by consanguinity to another person.* (Emphasis added.)

s. Section 908.03, Stats., provides certain exceptions to the exclusionary hearsay rule in court proceedings. Section 908.03 (11), Stats., provides that one of those exceptions is as follows:

908.03 (11) RECORDS OF RELIGIOUS ORGANIZATIONS. Statements of births, marriages, divorces, deaths, whether a child is marital or nonmarital, ancestry, *relationship by blood or marriage*, or other similar facts of personal or family history, contained in a regularly kept record of a religious organization. (Emphasis added.)

t. Section 938.02 (15), Stats., defines "relative" for purposes of ch. 938, Stats. (the Juvenile Justice Code). It provides that:

938.02 (15) "Relative" means a parent, grandparent, stepparent, brother, sister, first cousin, nephew, niece, uncle or aunt. *This relationship may be by consanguinity or direct affinity*. (Emphasis added.)

In general, it should be noted that the Juvenile Justice Code parallels the Children's Code, except when differences are specifically intended. Thus, it could be argued that the definition in s. 938.02 (15), Stats., should be amended to be identical to the definition in s. 48.02 (15), Stats., as amended by 1997 Wisconsin Act 104.

u. Section 944.06, Stats., defines and penalizes incest under ch. 944, Stats., relating to crimes against sexual morality. It provides as follows:

944.06 Incest. Whoever marries or has nonmarital sexual intercourse with a person he or she knows is a *blood relative* and such relative is in fact related in a degree within which the marriage of the parties is prohibited by the law of this state is guilty of a Class C felony. (Emphasis added.)

? blood only
No

marriage?
adoption?

It should be noted that s. 948.06, Stats., defines and penalizes incest with a child in ch. 948, Stats., relating to crimes against children. It provides, in pertinent part, that a person is guilty of a Class BC felony if the person:

Marries or has sexual intercourse or sexual contact with a child he or she knows is *related, either by blood or adoption*, and the child is related in a degree of kinship closer than 2nd cousin. [s. 948.06 (1), Stats.; emphasis added.]

? blood or adoption

marriage?

Thus, in contrast to s. 944.06, Stats., which does not specify a criminal penalty if a person is a relative by adoption, s. 948.06, Stats., specifies a criminal penalty if a person is a relative by adoption and the victim is a child.

v. Section 946.47, Stats., sets forth the elements of the crime of harboring or aiding a felon. However, s. 946.47 (3), Stats., provides that:

This section does not apply to the felon or the felon's spouse, parent, grandparent, child, grandchild, brother or sister *by consanguinity or affinity* of such felon. (Emphasis added.)

w. Section 979.05, Stats., sets up a procedure to conduct an inquest to investigate a death. Under certain circumstances, such an inquest is held before a jury. Section 979.05 (3), Stats., provides that:

The judge or court commissioner shall examine on oath or affirmation each person who is called as a juror to discover whether the juror is *related by blood or marriage* to the decedent, any member of the decedent's family, the district attorney, any other attorney appearing in the case, any members of the office of the district attorney or any other attorney appearing in the case or has expressed or formed any opinion regarding the matters being inquired into or is aware of or has any bias or prejudice concerning the matters being inquired into in the inquest. If any prospective juror is found to be not indifferent or is found to have formed an opinion which cannot be laid aside, that juror shall be excused. The judge or court commissioner may select one or more alternate jurors if the inquest is likely to be protracted. This subsection does not limit the right of the district attorney to supplement the judge's or court commissioner's examination of any prospective jurors as to qualifications. (Emphasis added.)

2. Statutes Which Refer to a Relationship by Lineal Descent or Ascent

Similar to the variety of statutory approaches with respect to referring to relationships by blood and adoption, the statutes use varying approaches when referring to a relationship by lineal descent or ascent with respect to whether a relationship by adoption is included. For example, s. 19.42 (7) (b), Stats., defines "immediate family" for purposes of the code of ethics for public officials and employees and refers to an "individual's relative by marriage, lineal descent or adoption." This implies that there is a distinction between a relative by lineal descent and a relative by adoption. On the other hand, s. 180.1805 (3), Stats., defines "shareholder's immediate family" for purposes of share transfer restrictions for statutory close corporations and refers to "lineal descendants [including any adopted children.]" This implies that a relative by adoption may be a lineal descendant.

However, several statutes refer to a lineal descendant or ascendant without referring to a relationship by adoption. These include:

a. Section 77.25 (15), (15m) and (15s), Stats., which provide exemptions from real estate transfer fees:

77.25 (15) Between a corporation and its shareholders if all of the stock is owned by persons who are related to each other as spouses, *lineal ascendants, lineal descendants*, siblings or spouses

ancestor or lineal ascendant = parents, grandparents, etc

lineal descendant = children, grandchildren

of siblings, if the transfer is for no consideration except the assumption of debt or stock of the corporation and if the corporation owned the property for at least 3 years. (Emphasis added.)

77.25 (15m) Between a partnership and one or more of its partners if all of the partners are related to each other as spouses, *lineal ascendants, lineal descendants*, siblings, or spouses of siblings and if the transfer is for no consideration other than the assumption of debt or an interest in the partnership. (Emphasis added.)

77.25 (15s) Between a limited liability company and one or more of its members if all of the members are related to each other as spouses, *lineal ascendants, lineal descendants*, siblings, or spouses of siblings and if the transfer is for no consideration other than the assumption of debt or an interest in the limited liability company. (Emphasis added.)

b. Section 102.07 (5), Stats., relates to how to determine the number of employees of a person engaged in farming under the worker's compensation law and provides, in pertinent part, that:

102.07 (5) (c) A shareholder-employee of a family farm corporation shall be deemed a "farmer" for purposes of this chapter and shall not be deemed an employee of a farmer. A "family farm corporation" means a corporation engaged in farming all of whose shareholders are related as *lineal ancestors or lineal descendants, or as spouses, brothers, sisters, uncles, aunts, cousins, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law or sisters-in-law of such lineal ancestors or lineal descendants*. (Emphasis added.)

c. Section 102.51 (2) Stats., relates to how to determine who is not a dependent for purposes of death benefits for persons who are solely and wholly dependent for support upon a deceased employe under worker's compensation laws. Section 102.51 (2) (a), Stats., provides that:

102.51 (2) (a) No person shall be considered a dependent unless a member of the family or a spouse, or a divorced spouse who has not remarried, or *lineal descendant or ancestor*, or brother or sister of the deceased employe. (Emphasis added.)

whether by blood or adoption,

d. Section 182.001 (1), Stats., relates to standards to be met with respect to a corporation or trust that is permitted to carry on farming operations. Section 182.001 (1) (a), Stats., specifies that one of the standards is that:

whether by blood or adoption,

182.001 (1) (a) Its shareholders or beneficiaries do not exceed 15 in number. *Lineal ancestors and descendants* and aunts, uncles and 1st cousins thereof count collectively as one shareholder or beneficiary for purposes of this paragraph, but this collective authorization shall not be used for more than one family in a single corporation or trust. (Emphasis added.)

e. Section 421.301 (32) (c), Stats., includes in the definition of "person related to" for purposes of the Wisconsin Consumer Act the following:

by blood or adoption

421.301 (32) (c) An *ancestor or lineal descendant* of the natural person or that person's spouse; and (Emphasis added.)

See item 1. k., above.

f. Section 815.18 (3), Stats., relates to property generally exempt from execution. With respect to the exemption for retirement benefits from certain assets held or amounts payable under or traceable to an owner-dominated plan for or on behalf of an owner-employee, s. 815.18 (3) (j) 6. b., Stats., defines "owner-dominated plan" as follows:

815.18 (3) (j) 6. b. "Owner-dominated plan" means any plan or contract that meets the requirements of subd. 2. and under which 90% or more of the present value of the accrued benefits or 90% or more of the aggregate of the account is for the benefit of one or more individuals who are owner-employees. For purposes of this definition, the accrued benefits or account of an owner-employee under a plan or contract shall include the accrued benefits or account of the spouse and any *ancestor, lineal descendant or spouse of a lineal descendant* of the owner-employee under the same plan or contract. (Emphasis added.)

by blood or adoption

With respect to these statutes, it is not clear whether a lineal descendant or ascendant includes a relative by adoption.

C. POSSIBLE APPROACHES TO AMENDMENT

Although the statutes listed in Section B. 1., above, refer to a relationship by blood without referring to a relationship by adoption, in some of those cases it is not clear that there is a rational basis for not including a relative by adoption on the same basis as a relative by blood. For example, s. 632.32 (6) (b) 1., Stats., prohibits an automobile insurance policy from excluding from coverage persons related to the insured by blood or marriage. It is not clear why the Legislature would not treat an adopted child of an insured the same way as a blood child of the insured for this purpose. Thus, while there may be some instances in which it was the legislative intent to exclude relatives by adoption, in many cases it appears that the reference to a relative by blood inadvertently omits a reference to a relative by adoption.

You indicated that you may consider proposing legislation to include a reference to a relative by adoption in some or all of these statutes. If so, the statutes in Section B., above, should be reviewed.

Another possible approach is to include a general statement in the statutes that any reference in the statutes to lineal descent or ascent or a relationship by blood, consanguinity or a similar term is to be construed to include relatives by adoption unless a contrary intent is specified, for example, as specified in the statutes dealing with inheritance and wills or other governing documents that transfer property at death. If the latter approach is followed, then the many statutes that refer to a relationship by adoption, for example, by referring to blood, marriage or adoption, could be amended to delete the references to adoption. However, it should be noted that while this latter approach may be appropriate with respect to most statutes, there may be particular statutes where it was the legislative intent that a reference to blood not include adoption. One statute which you may wish to particularly review is s. 944.06, Stats., relating to incest, as set forth in Section B. 1. u., above.

After your review, please let me know if you are interested in introducing legislation. I can then prepare drafting instructions for the Legislative Reference Bureau. If you have any questions about this, please contact me at 266-3137.

JLK:jal;wu

Attachment

ATTACHMENT

Section 854.20 and 854.21, Stats.

854.20 Status of adopted persons. (1) INHERITANCE RIGHTS BETWEEN ADOPTED PERSON AND ADOPTIVE RELATIVES. Subject to sub. (4), a legally adopted person is treated as a birth child of the person's adoptive parents for purposes of intestate succession by, through and from the adopted person and for purposes of any statute conferring rights upon children, issue or relatives in connection with the law of intestate succession or governing instruments.

(2) INHERITANCE RIGHTS BETWEEN ADOPTED PERSON AND BIRTH RELATIVES. Subject to sub. (4), a legally adopted person ceases to be treated as a child of the person's birth parents for the same purposes as under sub. (1), except:

(a) If a birth parent marries or remarries and the child is adopted by the stepparent, for all purposes the child is treated as the child of the birth parent whose spouse adopted the child.

(b) If a birth parent of a marital child dies and the other birth parent remarries and the child is adopted by the stepparent, the child is treated as the child of the deceased birth parent for purposes of inheritance through that parent and for purposes of any statute conferring rights upon children, issue or relatives of that parent under the law of intestate succession or governing instruments.

(3) SEQUENTIAL ADOPTION. Subject to sub. (4), if an adoptive parent dies or his or her parental rights are terminated in a legal proceeding and the adopted child is subsequently adopted by another person, the former adoptive parent is considered to be a birth parent for purposes of this section.

(4) APPLICABILITY. Subsections (1), (2) and (3) apply only if at least one of the following applies:

(a) The decedent or transferor is the adoptive parent or adopted child.

(b) The adopted person was a minor at the time of adoption.

(c) The adopted person was raised as a member of the household by the adoptive parent from the child's 15th birthday or before.

(5) CONTRARY INTENT. This section does not apply if the transfer is made under a governing instrument and there is a finding of contrary intent of the person who executed the instrument. Extrinsic evidence may be used to construe that intent.

854.21 Persons included in family groups or classes. (1) ADOPTED PERSONS. (a) Except as provided in par. (b) or sub. (7), a gift of property by a governing instrument to a class of persons described as issue, lawful issue, children, grandchildren, descendants, heirs, heirs of the body, next of kin, distributees or the like includes a person adopted by a person whose birth child would be a member of the class, and issue of the adopted person, if the conditions for membership in the class are otherwise satisfied and any of the following applies:

1. The transferor is the adoptive parent or adopted child.

2. The adopted person was a minor at the time of adoption.

3. The adopted person was raised as a member of the household by the adoptive parent from the child's 15th birthday or before.

(b) Except as provided in sub. (7), a gift under par. (a) excludes a birth child and his or her issue otherwise within the class if the birth child has been adopted and would cease to be a child of the birth parent under s. 854.20 (2).

(2) **INDIVIDUALS BORN TO UNMARRIED PARENTS.** (a) Subject to par. (b) and sub. (7), individuals born to unmarried parents are included in class gifts and other terms of relationship in accordance with s. 852.05.

(b) In addition to the requirements of par. (a) and subject to the provisions of sub. (7), in construing a disposition by a transferor who is not the birth parent, an individual born to unmarried parents is not considered to be the child of a birth parent unless that individual lived while a minor as a regular member of the household of that birth parent or of that birth parent's parent, brother, sister, spouse or surviving spouse.

(3) **RELATIVES BY MARRIAGE.** Subject to sub. (7), terms of family relationship in statutes or governing instruments that do not differentiate between relationships by blood and relationships by marriage are construed to exclude relatives by marriage.

(4) **RELATIVES OF THE HALF-BLOOD.** Subject to sub. (7), terms of family relationship in statutes or governing instruments that do not differentiate between relationships by the half-blood and relationships by the full-blood are construed to include both types of relationships.

(5) **POSTHUMOUS ISSUE.** Subject to sub. (7), if a statute or governing instrument transfers an interest to a group of persons described as a class, such as "issue", "children", "nephews and nieces" or any other class, a person conceived at the time the membership in the class is determined and subsequently born alive is entitled to take as a member of the class if that person otherwise satisfies the conditions for class membership and survives at least 120 hours past birth.

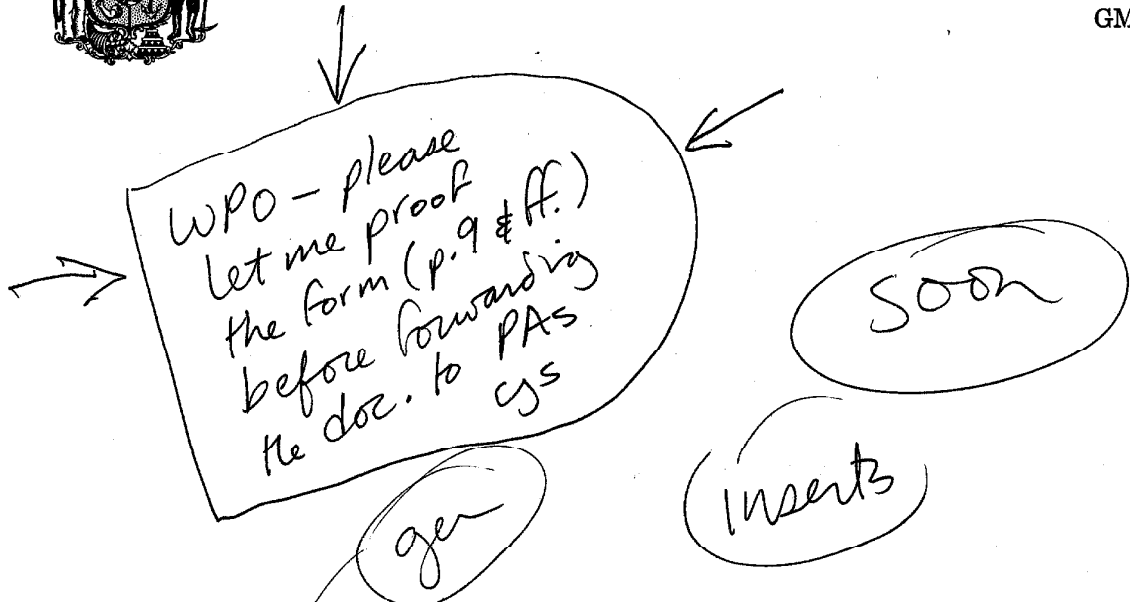
(6) **PERSON RELATED THROUGH 2 LINES.** Subject to sub. (7), a person who is eligible to be a transferee under a statute or governing instrument through 2 lines of relationship is limited to one share, based on the relationship that entitles the person to the larger share.

(7) **CONTRARY INTENT.** This section does not apply if the transfer is made under a governing instrument and there is a finding of contrary intent of the person who executed the governing instrument. Extrinsic evidence may be used to construe that intent.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3803/7
GMM:Y:.....
gs



1 AN ACT ...; relating to: including relatives by adoption on the same basis as
 2 relatives by blood in certain definitions and references in the statutes.

Analysis by the Legislative Reference Bureau

Under current law, "relative" is defined or referenced in the statutes for certain purposes. Currently, some definitions of and references to "relative" include relatives by blood, by marriage or by adoption, and other definitions of and references to "relative" include relatives by blood or by marriage, but do not include relatives by adoption. This bill includes relatives by adoption in all of the following:

1. The definitions of "relative" for purposes of the juvenile justice code, the fair housing law, filing a petition to prohibit a bone marrow donation by a minor, consenting to a human immunodeficiency virus (HIV) test for a person who is unable to consent due to his or her medical condition and compelling a nonlegally responsible relative (NLRR) to provide support for a child.
2. The definition of "person related to" for purposes of the Wisconsin consumer act, which among other things prohibits a debt collector from threatening or harassing a customer or a person related to a customer.
3. The definition of "family member" for purposes of granting a domestic abuse restraining order.
4. The exception for certain relatives to the law prohibiting the harboring of a felon.
5. The prohibition against the examiner of the subject of a mental commitment being related to that subject.
6. The prohibition against a witness to a power of attorney for finances and property being related to the person granting the power of attorney.
7. The requirement that a juror not be related to a party or an attorney for a party.

X
X

8. The hearsay exception for statements of relationship contained in the records of a religious organization.

9. The law permitting benefits under the public employe trust fund to be paid to a relative who is providing care for a person who has been adjudged mentally incompetent.

10. The exception to the law prohibiting a person from issuing a gift annuity that permits a gift annuity to be issued to certain relatives.

11. The exception to the law requiring the consent of the insured for the issuance of an individual life or disability insurance policy that permits a close relative to purchase such a policy on the life or health of a person serving outside of the United States in the public service of the United States.

12. The prohibition against an automobile insurance policy excluding from coverage a relative of the insured.

13. The exclusion from the law regulating migrant labor camp living quarters for the relatives of the employer.

14. The definition of "affiliated interests" of a public utility for purposes of the requirement that the public service commission approve a contract between a public utility and an affiliated interest of the public utility.

Under current law, certain statutes contain references to a person's lineal descendants, that is, the person's children, grandchildren and other direct descendants, and to a person's lineal ascendants or lineal ancestors, that is, the person's parents, grandparents and other direct ascendants. Current law does not specify whether those descendants and ascendants include a descendant or ascendant by adoption. This bill specifies that the descendants and ascendants referenced in all of the following include descendants and ascendants by blood or by adoption:

1. The exemption from the real estate transfer fee for a conveyance between a corporation and its shareholders, between a partnership and one of its partners or between a limited liability company and one of its members, if all of the shareholders, partners or members are related to each other and if the transfer is for no consideration or for the assumption of debt or an interest in the corporation, partnership or limited liability company.

2. The definition of "family farm corporation", that is, a corporation engaged in farming all of whose shareholders are related, for purposes of excluding those shareholders from the definition of "employee" under the worker's compensation law.

3. The law stating who may be considered a dependent of a deceased employe for purposes of entitlement to death benefits under the worker's compensation law.

4. The prohibition against a corporation or trust engaging in farming unless certain standards are met, including a standard that the number of shareholders or beneficiaries may not exceed 15, with certain relatives collectively being counted as only one shareholder or beneficiary.

5. The definition of "person related to" for purposes of the Wisconsin consumer act, which among other things prohibits a debt collector from threatening or harassing a customer or a person related to a customer.

6. The definition of “owner-dominated plan”, that is, a retirement plan under which 90% or more of the accrued benefits are for the benefit of the owner-employee or certain relatives of the owner-employee, for purposes of exempting retirement benefits from execution.

Under current law, certain definitions of and references to “relative” include relatives by “consanguinity”, which means by blood, and relatives by “affinity”, which means by marriage. This bill substitutes “blood” for “consanguinity” and “marriage” for affinity” in all of the following:

1. The definitions of “relative” for purposes of the juvenile justice code, the kinship care and long-term kinship care programs, the fair housing law, filing a petition to prohibit a bone marrow transplant by a minor, consenting to an HIV test for a person who is unable to consent due to his or her medical condition and compelling a NLRR to provide support for a child. X

2. The exception for certain relatives to the law prohibiting the harboring of a felon.

Finally, the bill substitutes “blood” for “consanguinity” in the definition of “relative” for purposes of the uniform fraudulent transfer act and substitutes “blood relationship” for “consanguinity” in the rule of evidence permitting a pedigree recital in a deed or a will to be admitted as evidence that the recital is true. X

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

1 SECTION 1. 40.08 (9) of the statutes is amended to read:

2 40.08 (9) PAYMENTS OF BENEFITS TO MINORS AND INCOMPETENTS. In any case in
3 which a benefit amount becomes payable to a minor or to a person adjudged mentally
4 incompetent, the department may waive guardianship proceedings, and pay the
5 benefit to the person providing for or caring for the minor, or to the spouse, or the
6 parent or blood other relative by blood or adoption providing for or caring for the
7 incompetent person.

8 History: 1981 c. 96, 391; 1983 a. 290; 1985 a. ~~162~~ s. 57; 1987 a. 309; 1989 a. 31, 218; 1991 a. 141, 152; 1995 a. 302, 414; 1997 a. 35, 110, 125, 191, 237.

SECTION 2. 46.95 (1) (b) of the statutes is amended to read:

9 46.95 (1) (b) “Family member” means a spouse, a parent, a child or a person
10 related by consanguinity blood or adoption to another person.

11 SECTION 3. 48.57 (3m) (a) of the statutes is amended to read:

1 48.57 (3m) (a) In this subsection, “kinship care relative” means a stepparent,
 2 brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any
 3 person of a preceding generation as denoted by the prefix of grand, great or
 4 great-great, whether by ~~consanguinity, direct affinity~~ blood, marriage or legal
 5 adoption, or the spouse of any person named in this paragraph, even if the marriage
 6 is terminated by death or divorce.

7 **SECTION 4.** 48.57 (3n) (a) of the statutes is amended to read:

8 48.57 (3n) (a) In this subsection, “long-term kinship care relative” means a
 9 stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt,
 10 uncle or any person of a preceding generation as denoted by the prefix of grand, great
 11 or great-great, whether by ~~consanguinity, direct affinity~~ blood, marriage or legal
 12 adoption, or the spouse of any person named in this paragraph, even if the marriage
 13 is terminated by death or divorce.

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987
 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292.

14 **SECTION 5.** 51.20 (9) (a) of the statutes is amended to read:

15 51.20 (9) (a) If the court finds after the hearing that there is probable cause to
 16 believe the allegations under sub. (1), it shall appoint 2 licensed physicians
 17 specializing in psychiatry, or one licensed physician and one licensed psychologist,
 18 or 2 licensed physicians one of whom shall have specialized training in psychiatry,
 19 if available, or 2 physicians, to personally examine the subject individual. Such
 20 examiners shall have the specialized knowledge determined by the court to be
 21 appropriate to the needs of the subject individual. One of the examiners may be
 22 selected by the subject individual if such person makes his or her selection known
 23 to the court within 24 hours after completion of the hearing to determine probable
 24 cause for commitment. The court may deny the subject individual’s selection if the

1 examiner does not meet the requirements of this paragraph or such person is not
2 available. If requested by the subject individual, the individual's attorney or any
3 other interested party with court permission, the individual has a right at his or her
4 own expense or if indigent with approval of the court hearing the petition, at the
5 reasonable expense of the individual's county of legal residence, to secure an
6 additional medical or psychological examination, and to offer the evaluator's
7 personal testimony, as evidence at the hearing. The examiners may not be related
8 to the subject individual by blood ~~or~~, marriage or adoption, and may have no interest
9 in his or her property. Prior to the examination the subject individual shall be
10 informed that his or her statements can be used as a basis for commitment and that
11 he or she has the right to remain silent, and that the examiner is required to make
12 a report to the court even if the subject individual remains silent. A written report
13 shall be made of all such examinations and filed with the court. The issuance of such
14 a warning to the subject individual prior to each examination establishes a
15 presumption that the individual understands that he or she need not speak to the
16 examiner. The examiners shall personally observe and examine the subject
17 individual at any suitable place and satisfy themselves, if reasonably possible, as to
18 the individual's mental condition, and shall make independent reports to the court.
19 The subject individual's treatment records shall be available to the examiners. If the
20 subject individual is not detained pending the hearing, the court shall designate the
21 time and place where the examination is to be held and shall require the individual's
22 appearance. The report and testimony, if any, by the examiners shall be based on
23 beliefs to a reasonable degree of medical certainty, or professional certainty if an
24 examiner is a psychologist, in regard to the existence of the conditions described in
25 sub. (1), and the appropriateness of various treatment modalities or facilities. If the

1 examiners are unable to make conclusions to a reasonable degree of medical or
2 professional certainty, the examiners shall so state in their report and testimony, if
3 any.

4 **SECTION 6.** 77.25 (15) of the statutes is amended to read:

5 77.25 (15) Between a corporation and its shareholders if all of the stock is
6 owned by persons who are related to each other as spouses, as lineal ascendants,
7 lineal descendants, or siblings, whether by blood or by adoption, or as spouses of
8 siblings, if the transfer is for no consideration except the assumption of debt or stock
9 of the corporation and if the corporation owned the property for at least 3 years.

10 History: 1971 c. 150; 1985 a. 39; 1987 a. 27; 1991 a. 39, 202, 269; 1993 a. 112, 263, 307; 1995 a. 458; 1997 a. 140.

11 **SECTION 7.** 77.25 (15m) of the statutes is amended to read:

12 77.25 (15m) Between a partnership and one or more of its partners if all of the
13 partners are related to each other as spouses, as lineal ascendants, lineal
14 descendants, or siblings, whether by blood or by adoption, or as spouses of siblings
15 and if the transfer is for no consideration other than the assumption of debt or an
interest in the partnership.

16 History: 1971 c. 150; 1985 a. 39; 1987 a. 27; 1991 a. 39, 202, 269; 1993 a. 112, 263, 307; 1995 a. 458; 1997 a. 140.

17 **SECTION 8.** 77.25 (15s) of the statutes is amended to read:

18 77.25 (15s) Between a limited liability company and one or more of its members
19 if all of the members are related to each other as spouses, as lineal ascendants, lineal
20 descendants, or siblings, whether by blood or by adoption, or as spouses of siblings
21 and if the transfer is for no consideration other than the assumption of debt or an
interest in the limited liability company.

22 History: 1971 c. 150; 1985 a. 39; 1987 a. 27; 1991 a. 39, 202, 269; 1993 a. 112, 263, 307; 1995 a. 458; 1997 a. 140.

23 **SECTION 9.** 102.07 (5) (c) of the statutes is amended to read:

24 102.07 (5) (c) A shareholder-employee of a family farm corporation shall be
deemed a "farmer" for purposes of this chapter and shall not be deemed an employee

1 of a farmer. A "family farm corporation" means a corporation engaged in farming all
2 of whose shareholders are related as lineal ancestors or lineal descendants, whether
3 by blood or by adoption, or as spouses, brothers, sisters, uncles, aunts, cousins,
4 sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers-in-law
5 or sisters-in-law of such lineal ancestors or lineal descendants.

History: 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 281, 289, 417; 1997 a. 35, 38, 118.

6 SECTION 10. 102.51 (2) (a) of the statutes is amended to read:

7 102.51 (2) (a) No person shall be considered a dependent unless that person is

8 a member of the family or a spouse, or a divorced spouse who has not remarried, or
9 a lineal descendant or lineal ancestor, or brother or sister or other member of the
10 family, whether by blood or by adoption, of the deceased employe.

History: 1975 c. 94, 147; 1977 c. 195; 1981 c. 92; 1983 a. 96, 368; 1993 a. 112, 492; 1995 a. 225; 1997 a. 253.

11 SECTION 11. 103.90 (3) (a) 2. of the statutes is amended to read:

12 103.90 (3) (a) 2. Any other person who is not related by blood or marriage or
13 adoption to his or her employer and who occasionally or habitually leaves an
14 established place of residence to travel to another locality to accept seasonal
15 employment in the planting, cultivating, raising, harvesting, handling, drying,
16 packing, packaging, processing, freezing, grading or storing of any agricultural or
17 horticultural commodity in its unmanufactured state.

18 SECTION 12. 106.04 (1m) (q) of the statutes is amended to read:

19 106.04 (1m) (q) "Relative" means a parent, grandparent, greatgrandparent,
20 stepparent, step grandparent, brother, sister, child, stepchild, grandchild, step
21 grandchild, greatgrandchild, first cousin, 2nd cousin, nephew, niece, uncle, aunt,
22 stepbrother, stepsister, half brother or half sister or any other person related by
23 blood, marriage, consanguinity or affinity or adoption.

24 SECTION 13. 146.34 (1) (j) of the statutes is amended to read:

1 146.34 (1) (j) "Relative" means a parent, grandparent, stepparent, brother,
2 sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree of kinship
3 as computed under s. 852.03 (2), 1995 stats. This relationship may be by
4 ~~consanguinity or direct affinity~~ blood, marriage or adoption.

~~NOTE: NOTE: Section 852.03 (2), 1995 stats., as printed in a note following s. 852.03. NOTE:~~

History: 1985 a. 50; 1995 a. 77; 1997 a. 188.

5 **SECTION 14.** 182.001 (1) (a) of the statutes is amended to read:

6 182.001 (1) (a) Its shareholders or beneficiaries do not exceed 15 in number.
7 Lineal ancestors and lineal descendants, ~~whether by blood or by adoption,~~ and aunts,
8 uncles and 1st cousins thereof count collectively as one shareholder or beneficiary for
9 purposes of this paragraph, but this collective authorization shall not be used for
10 more than one family in a single corporation or trust.

History: 1973 c. 238; 1977 c. 411.

11 **SECTION 15.** 196.52 (1) (g) of the statutes is amended to read:

12 196.52 (1) (g) Any other person whom the commission determines as a matter
13 of fact after investigation and hearing to be actually exercising substantial influence
14 over the policies and actions of the public utility in conjunction with one or more other
15 persons with whom they are related by ownership ~~or~~ by blood relationship or
16 adoption or by action in concert that together they are affiliated with such public
17 utility for the purpose of this section, even though no one of them alone is so affiliated
18 under pars. (a) to (f).

History: 1981 c. 390; 1983 a. 53, 538; 1985 a. 297; 1993 a. 496; 1995 a. 225; 1997 a. 184.

19 **SECTION 16.** 242.01 (11) of the statutes is amended to read:

20 242.01 (11) "Relative" means an individual related by ~~consanguinity~~ blood
21 within the 3rd degree of kinship as computed under s. 852.03 (2), 1995 stats., a
22 spouse or an individual related to a spouse within the 3rd degree as so computed, and
23 includes an individual in an adoptive relationship within the 3rd degree.

Editors:
- 9 - Do we have to print
entire form or just
relevant paragraph being amended? Yes

LRB-3803/?
GMM.....
SECTION 16

1 ~~NOTE: NOTE: NOTE: Section 852.03 (2), 1965 stats, is printed in a note following a 852.03. NOTE:~~

2 History: 1987 a. 192; 1989 a. 278; 1993 a. 112; 1997 a. 188.

2 SECTION 17. 243.10 (1) of the statutes is amended to read:

3 243.10 (1) FORM. The following is the form for the Wisconsin basic power of
4 attorney for finances and property:

5 WISCONSIN BASIC POWER OF ATTORNEY

6 FOR FINANCES AND PROPERTY

*centered
bold*

7 NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS
8 DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. BY SIGNING
9 THIS DOCUMENT, YOU ARE NOT GIVING UP ANY POWERS OR RIGHTS TO
10 CONTROL YOUR FINANCES AND PROPERTY YOURSELF. IN ADDITION TO
11 YOUR OWN POWERS AND RIGHTS, YOU ARE GIVING ANOTHER PERSON,
12 YOUR AGENT, BROAD POWERS TO HANDLE YOUR FINANCES AND
13 PROPERTY. THIS BASIC POWER OF ATTORNEY FOR FINANCES AND
14 PROPERTY MAY GIVE THE PERSON WHOM YOU DESIGNATE (YOUR
15 "AGENT") BROAD POWERS TO HANDLE YOUR FINANCES AND PROPERTY,
16 WHICH MAY INCLUDE POWERS TO ENCUMBER, SELL OR OTHERWISE
17 DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE
18 NOTICE TO YOU OR APPROVAL BY YOU. THE POWERS WILL EXIST AFTER
19 YOU BECOME DISABLED, OR INCAPACITATED, IF YOU CHOOSE THAT
20 PROVISION. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE
21 MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF YOU OWN
22 COMPLEX OR SPECIAL ASSETS SUCH AS A BUSINESS, OR IF THERE IS
23 ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU
24 SHOULD ASK A LAWYER TO EXPLAIN THIS FORM TO YOU BEFORE YOU
25 SIGN IT.

1 IF YOU WISH TO CHANGE YOUR BASIC POWER OF ATTORNEY FOR
2 FINANCES AND PROPERTY, YOU MUST COMPLETE A NEW DOCUMENT
3 AND REVOKE THIS ONE. YOU MAY REVOKE THIS DOCUMENT AT ANY TIME
4 BY DESTROYING IT, BY DIRECTING ANOTHER PERSON TO DESTROY IT IN
5 YOUR PRESENCE OR BY SIGNING A WRITTEN AND DATED STATEMENT
6 EXPRESSING YOUR INTENT TO REVOKE THIS DOCUMENT. IF YOU
7 REVOKE THIS DOCUMENT, YOU SHOULD NOTIFY YOUR AGENT AND ANY
8 OTHER PERSON TO WHOM YOU HAVE GIVEN A COPY OF THE FORM. YOU
9 ALSO SHOULD NOTIFY ALL PARTIES HAVING CUSTODY OF YOUR ASSETS.
10 THESE PARTIES HAVE NO RESPONSIBILITY TO YOU UNLESS YOU
11 ACTUALLY NOTIFY THEM OF THE REVOCATION. IF YOUR AGENT IS YOUR
12 SPOUSE AND YOUR MARRIAGE IS ANNULLED, OR YOU ARE DIVORCED
13 AFTER SIGNING THIS DOCUMENT, THIS DOCUMENT IS INVALID.

14 SINCE SOME 3RD PARTIES OR SOME TRANSACTIONS MAY NOT
15 PERMIT USE OF THIS DOCUMENT, IT IS ADVISABLE TO CHECK IN
16 ADVANCE, IF POSSIBLE, FOR ANY SPECIAL REQUIREMENTS THAT MAY BE
17 IMPOSED.

18 YOU SHOULD SIGN THIS FORM ONLY IF THE AGENT YOU NAME IS
19 RELIABLE, TRUSTWORTHY AND COMPETENT TO MANAGE YOUR AFFAIRS.

20 I (insert your name and address) appoint (insert the name and address
21 of the person appointed) as my agent to act for me in any lawful way with respect to
22 the powers initialed below. If the person appointed is unable or unwilling to act as
23 my agent, I appoint (insert name and address of alternate person appointed) to
24 act for me in any lawful way with respect to the powers initialed below.

1 TO GRANT ONE OR MORE OF THE FOLLOWING POWERS, INITIAL THE
2 LINE IN FRONT OF EACH POWER YOU ARE GRANTING.

3 TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT.
4 YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

handling my money and property

Initials

_____ 1. *PAYMENTS OF BILLS*: My agent may make payments that are
necessary or appropriate in connection with the administration of my affairs.

_____ 2. *BANKING*: My agent may conduct business with financial
institutions, including endorsing all checks and drafts made payable to my order and
collecting the proceeds; signing in my name checks or orders on all accounts in my
name or for my benefit; withdrawing funds from accounts in my name; opening
accounts in my name; and entering into and removing articles from my safe deposit
box.

_____ 3. *INSURANCE*: My agent may obtain insurance of all types, as
considered necessary or appropriate, settle and adjust insurance claims and borrow
from insurers and 3rd parties using insurance policies as collateral.

_____ 4. *ACCOUNTS*: My agent may ask for, collect and receive money,
dividends, interest, legacies and property due or that may become due and owing to
me and give receipt for those payments.

_____ 5. *REAL ESTATE*: My agent may manage real property; sell, convey and
mortgage realty for prices and on terms as considered advisable; foreclose mortgages
and take title to property in my name; and execute deeds, mortgages, releases,
satisfactions and other instruments relating to realty.

Handwritten notes: "BOLD CENTERED ALL SAME SIZE CAPS" with arrows pointing to the numbered list items.

1 ___ 6. *BORROWING*: My agent may borrow money and encumber my assets
2 for loans as considered necessary.

3 ___ 7. *SECURITIES*: My agent may buy, sell, pledge and exchange securities
4 of all kinds in my name; sign and deliver in my name transfers and assignments of
5 securities; and consent in my name to reorganizations, mergers or exchange of
6 securities for new securities.

7 ___ 8. *INCOME TAXES*: My agent may make and sign tax returns; represent
8 me in all income tax matters before any federal, state, or local tax collecting agency;
9 and receive confidential information and perform any acts that I may perform,
10 including receiving refund checks and the signing of returns.

11 ___ 9. *TRUSTS*: My agent may transfer at any time any of my property to
12 a living trust that has been established by me before the execution of this document.

Professional and Technical

Assistance

Initials

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centered
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SAME
SIZE
CAPS

18 ___ 10. *LEGAL ACTIONS*: My agent may retain attorneys on my behalf;
19 appear for me in all actions and proceedings to which I may be a party; commence
20 actions and proceedings in my name; and sign in my name all documents or pleadings
21 of every description.

22 ___ 11. *PROFESSIONAL ASSISTANCE*: My agent may hire accountants,
23 attorneys, clerks, workers and others for the management, preservation and
24 protection of my property and estate.

General Authority

Initials

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Centered
All same
size caps

1 ___ 12. *GENERAL*: My agent may do any act or thing that I could do in my
2 own proper person if personally present, including managing or selling tangible
3 assets, disclaiming a probate or nonprobate inheritance and providing support for
4 a minor child or dependent adult. The specifically enumerated powers of the basic
5 power of attorney for finances and property are not a limitation of this intended
6 broad general power except that my agent may not take any action prohibited by law
7 and my agent under this document may not:

8 a. Make medical or health care decisions for me.

9 b. Make, modify or revoke a will for me.

10 c. Other than a burial trust agreement under section 445.125, Wisconsin
11 Statutes, enter into a trust agreement on my behalf or amend or revoke a trust
12 agreement, entered into by me.

13 d. Change any beneficiary designation of any life insurance policy, qualified
14 retirement plan, individual retirement account or payable on death account or the
15 like whether directly or by canceling and replacing the policy or rollover to another
16 plan or account.

17 e. Forgive debts owed to me or disclaim or waive benefits payable to me, except
18 a probate or nonprobate inheritance.

19 f. Appoint a substitute or successor agent for me.

20 g. Make gifts.

→ (21)
→ (22)
BOLD
&
CENTERED

21 **COMPENSATION TO AGENT FROM**
22 **PRINCIPAL'S FUNDS**

23 *Initials*

1 ___ 13. *COMPENSATION*. My agent may receive compensation only in an
 2 amount not greater than that usual for the services to be performed if expressly
 3 authorized in the special instructions portion of this document.

4 → accounting

5 *Initials*

6 ___ 14. *ACCOUNTING*. My agent shall render an accounting (monthly)
 7 (quarterly) (annually) (CIRCLE ONE) to me or to (insert name and address)
 8 during my lifetime and a final accounting to the personal representative of my estate,
 9 if any is appointed, after my death.

10 → Nomination of Guardian

11 *Initials*

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12 ___ 15. *GUARDIAN*: If necessary, I nominate (name) of (address) as
 13 guardian of my person and I nominate (name) of (address) as guardian of my
 14 estate.

15 → special instructions

16 *Initials*

17 ___ 16. *SPECIAL INSTRUCTIONS*:

18 ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS

19 REGARDING THE POWERS GRANTED TO YOUR AGENT.

some over these are
 text treat comment

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three components

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4 TO ESTABLISH WHEN, AND FOR HOW LONG, THE BASIC POWER OF
 5 ATTORNEY FOR FINANCES AND PROPERTY IS IN EFFECT, YOU MUST
 6 INITIAL ONLY ONE OF THE FOLLOWING 3 OPTIONS. IF YOU DO NOT
 7 INITIAL ONE, OR IF YOU INITIAL MORE THAN ONE, THIS BASIC POWER OF
 8 ATTORNEY FOR FINANCES AND PROPERTY WILL NOT TAKE EFFECT.

9 *Initials*

10 _____ This basic power of attorney for finances and property becomes effective
 11 when I sign it and will continue in effect as a durable power of attorney under section
 12 243.07, Wisconsin Statutes, if I become disabled or incapacitated.

13 _____ This basic power of attorney for finances and property becomes effective
 14 only when both of the following apply:

- 15 a. I have signed it; and
- 16 b. I become disabled or incapacitated.

17 _____ This basic power of attorney for finances and property becomes effective
 18 when I sign it BUT WILL CEASE TO BE EFFECTIVE IF I BECOME DISABLED
 19 OR INCAPACITATED.

20 I agree that any 3rd party who receives a copy of this document may act under
 21 it. Revocation of this basic power of attorney is not effective as to a 3rd party until
 22 the 3rd party learns of the revocation. I agree to reimburse the 3rd party for any loss
 23 resulting from claims that arise against the 3rd party because of reliance on this
 24 basic power of attorney.

25 Signed this day of, (year)

1

....
(Your Signature)

Flush Right
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3

4

....
(Your Social Security Number)

Flush Right
5
6

7

By signing as a witness, I am acknowledging the signature of the principal who signed in my presence and the presence of the other witness, and the fact that he or she has stated that this power of attorney reflects his or her wishes and is being executed voluntarily. I believe him or her to be of sound mind and capable of creating this power of attorney. I am not related to him or her by blood ~~or~~ marriage or adoption, and, to the best of my knowledge, I am not entitled to any portion of his or her estate under his or her will.

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No B

Witness

15

Dated:

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By:

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Print Name:

18

Address:

19

State of

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County of

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This document was acknowledged before me on (date) by (name of

22

principal).

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Flush Right

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No B
Witness
Dated:
By:
Print Name:
Address:

This material should be appear be inserted as indicated and indented in same way as the material at the insertion point

Flush Right 1

(Signature of Notarial Officer)

2

(Seal, if any)

Flush Right 3

(Title)

Flush Right 4

[My commission is permanent or expires:]

5

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT

6

ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES AND

7

LIABILITIES OF AN AGENT.

8 

Flush Right 9

....

Flush Right 10

(Name of Agent)

11 

Flush Right 12

....

Flush Right 13

(Signature of Agent)

14

This document was drafted by (signature of person preparing the

15

document).

~~NOTE: 1997 Wis. Act 259 created the above form. As created, the "witness" portion of the document was in a single column format with dot leaders following each occurrence of "Witness". Consistent with the original draft of the form, the form is printed here with the "witness" portion in two columns and without the dot leaders, to clarify the correct signature line. Legislation confirming the change is pending. NOTE:~~

History: 1991 a. 297; 1993 a. 148, 213, 299, 484; 1995 a. 17 s. 9126 (19); 1997 a. 35, 233.

16

SECTION 18. 252.15 (1) (eg) of the statutes is amended to read:

17

252.15 (1) (eg) "Relative" means a spouse, parent, grandparent, stepparent,

18

brother, sister, first cousin, nephew or niece; or uncle or aunt within the 3rd degree

19

of kinship as computed under s. 852.03 (2), 1995 stats. This relationship may be by

20

~~consanguinity or direct affinity~~ blood, marriage or adoption.

~~NOTE: Section 852.03 (2), 1995 stats. is printed in a note following s. 852.03. NOTE:~~

History: 1985 a. 29, 73, 120; 1987 a. 70 ss. 13 to 27, 36; 1987 a. 403 ss. 136, 256; 1989 a. 200; 1989 a. 201 ss. 11 to 25, 36; 1989 a. 298, 359; 1991 a. 269; 1993 a. 16 s. 2567; 1993 a. 27 ss. 332, 334, 337, 340, 342; Stats. 1993 s. 252.15; 1993 a. 32, 183, 190, 252, 395, 491; 1995 a. 27 ss. 6323, 9116 (5), 9126 (19); 1995 a. 77, 275; 1997 a. 54, 80, 156, 188.

21

SECTION 19. 421.301 (32) (c) of the statutes is amended to read:

1 421.301 (32) (c) An ancestor or lineal descendant, by blood or adoption, of the
2 natural person or that person's spouse; and

History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, ~~1983 a. 7~~; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302.

3 **SECTION 20.** 421.301 (32) (d) of the statutes is amended to read:

4 421.301 (32) (d) Any other relative, by blood ~~or~~, marriage or adoption, of the
5 natural person or that person's spouse who shares the same home with the natural
6 person.

7 **SECTION 21.** 421.301 (33) (d) of the statutes is amended to read:

8 421.301 (33) (d) A relative by blood ~~or~~, marriage or adoption of a person related
9 to the organization who shares the same home with that person.

10 **SECTION 22.** 615.03 (1) (c) of the statutes is amended to read:

11 615.03 (1) (c) A natural person who issues such an annuity to a relative by blood
12 ~~or~~, marriage or adoption within the 3rd degree of kinship as computed according to
13 s. 852.03 (2), 1995 stats.

~~NOTE: NOTE: Section 852.03 (2), 1995 stats., is printed in a note following s. 852.03. NOTE:~~

History: 1975 c. 374; 1979 c. 89; 1981 c. 314 s. 14; 1997 a. 188.

14 **SECTION 23.** 631.07 (3) (a) 5. of the statutes is amended to read:

15 631.07 (3) (a) 5. The commissioner may promulgate rules permitting issuance
16 of insurance for a limited term on the life or health of a person serving outside the
17 continental United States in the public service of the United States, provided the
18 policyholder is closely related by blood ~~or by~~, marriage or adoption to the person
19 whose life or health is insured.

20 **SECTION 24.** 632.32 (6) (b) 1. of the statutes is amended to read:

21 632.32 (6) (b) 1. Persons related by blood ~~or~~, marriage or adoption to the
22 insured.

23 **SECTION 25.** 767.08 (1) (b) of the statutes is amended to read:

1 767.08 (1) (b) “Relative” means any person connected with a child by
2 ~~consanguinity or direct affinity~~ blood, marriage or adoption.

3 **SECTION 26.** 805.08 (1) of the statutes is amended to read:

4 805.08 (1) **QUALIFICATIONS, EXAMINATION.** The court shall examine on oath each
5 person who is called as a juror to discover whether the juror is related by blood ~~or~~,
6 marriage or adoption to any party or to any attorney appearing in the case, or has
7 any financial interest in the case, or has expressed or formed any opinion, or is aware
8 of any bias or prejudice in the case. If a juror is not indifferent in the case, the juror
9 shall be excused. Any party objecting for cause to a juror may introduce evidence in
10 support of the objection. This section shall not be construed as abridging in any
11 manner the right of either party to supplement the court’s examination of any person
12 as to qualifications, but such examination shall not be repetitious or based upon
13 hypothetical questions.

14 **SECTION 27.** 813.12 (1) (b) of the statutes is amended to read:

15 813.12 (1) (b) “Family member” means a spouse, a parent, a child or a person
16 related by ~~consanguinity~~ blood or adoption to another person.

17 **SECTION 28.** 815.18 (3) (j) 6. b. of the statutes is amended to read:

18 815.18 (3) (j) 6. b. “Owner–dominated plan” means any plan or contract that
19 meets the requirements of subd. 2. and under which 90% or more of the present value
20 of the accrued benefits or 90% or more of the aggregate of the account is for the benefit
21 of one or more individuals who are owner–employees. For purposes of this definition,
22 the accrued benefits or account of an owner–employee under a plan or contract shall
23 include the accrued benefits or account of the spouse ~~and~~, any ancestor, or lineal

1 descendant, whether by blood or by adoption, or the spouse of such a lineal
 2 descendant, of the owner-employee under the same plan or contract.

History: 1971 c. 154, 172; 1971 c. 211 s. 126; 1971 c. 220 s. 14; Sup. Ct. Order, 67 Wis. 2d 585, 761 (1975); 1975 c. 94 s. 91 (3), (5); 1975 c. 199; 1975 c. 359 s. 51; Stats. 1975 s. 815.18; 1979 c. 110 s. 60 (4); 1979 c. 191, 265, 355; 1985 a. 37; 1989 a. 56, 278, 359; 1991 a. 39, 221; 1993 a. 112, 399, 491; 1995 a. 27, 403; 1997 a. 39.

3 **SECTION 29.** 889.19 of the statutes is amended to read:

4 **889.19 Pedigree recitals in deeds and wills.** Any deed, mortgage, land
 5 contract or other conveyance that has been duly recorded in the proper register's
 6 office for 20 years, and any will that has been admitted to probate, containing a
 7 recital in respect to pedigree, ~~consanguinity, blood relationship,~~ marriage, celibacy,
 8 adoption or descent, and being in other respects admissible in evidence, shall be
 9 admitted as prima facie evidence that the recital is true.

10 **SECTION 30.** 908.03 (11) of the statutes is amended to read:

11 **908.03 (11) RECORDS OF RELIGIOUS ORGANIZATIONS.** Statements of births,
 12 marriages, divorces, deaths, whether a child is marital or nonmarital, ancestry,
 13 relationship by blood ~~or~~, marriage or adoption, or other similar facts of personal or
 14 family history, contained in a regularly kept record of a religious organization.

15 **SECTION 31.** 938.02 (15) of the statutes is amended to read:

16 **938.02 (15) "Relative"** means a parent, grandparent, stepparent, brother,
 17 sister, first cousin, nephew, niece, uncle or aunt. ~~This relationship may be by~~
 18 consanguinity or direct affinity, whether by blood, marriage or adoption.

19 **SECTION 32.** 946.47 (3) of the statutes is amended to read:

20 **946.47 (3)** This section does not apply to the felon ~~or~~, to the felon's spouse, or
 21 to a parent, grandparent, child, grandchild, brother or sister by consanguinity or
 22 affinity of such felon of the felon, whether by blood, marriage or adoption.

23 **SECTION 33.** 979.05 (3) of the statutes, as affected by 1996 Supreme Court
 24 Order 8, is repealed and recreated to read:

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979.05 (3) The judge or court commissioner shall examine on oath or affirmation each person who is called as a juror to discover whether the juror is related by blood, marriage or adoption to the decedent, any member of the decedent's family, the district attorney, any other attorney appearing in the case, any members of the office of the district attorney or any other attorney appearing in the case or has expressed or formed any opinion regarding the matters being inquired into or is aware of or has any bias or prejudice concerning the matters being inquired into in the inquest. If any prospective juror is found to be not indifferent or is found to have formed an opinion which cannot be laid aside, that juror shall be excused. The judge or court commissioner may select one or more alternate jurors if the inquest is likely to be protracted. This subsection does not limit the right of the district attorney to supplement the judge's or court commissioner's examination of any prospective jurors as to qualifications.

in the inquest

and to residential mortgage loans, as defined in section 138.252 (1)(b) of the statutes,

SECTION 34. Initial applicability.

(1) MENTAL EXAMINATIONS. The treatment of section 51.20 (9) (a) of the statutes first applies to mental examiners appointed on the effective date of this subsection.

(2) CONSUMER CREDIT TRANSACTIONS. The treatment of section 421.301 (32) (c) and (d) and (33) (d) of the statutes first applies to consumer credit transactions, as defined in section 421.301 (10) of the statutes, that are entered into, or that are modified, extended or renewed, on the effective date of this subsection and to prohibited practices under section 427.104 (1) (g), (h) or (i) of the statutes that are committed on the effective date of this subsection.

(3) POWER OF ATTORNEY FOR FINANCES AND PROPERTY. The treatment of section 243.10 (1) of the statutes first applies to powers of attorney for finances and property granted on the effective date of this subsection.

1 (4) PAYMENT OF PUBLIC EMPLOYE TRUST FUND BENEFITS. The treatment of section
2 40.08 (9) of the statutes first applies to payments of public employe trust fund
3 benefits made on the effective date of this subsection.

4 (5) ANNUITIES AND INSURANCE POLICIES.

5 (a) *Gift annuities*. The treatment of section 615.03 (1) (c) of the statutes first
6 applies to gift annuities that are issued on the effective date of this paragraph.

7 (b) *Motor vehicle insurance policies*. The treatment of section 632.32 (6) (b) 1.
8 of the statutes first applies to motor vehicle insurance policies that are issued, or that
9 are extended, modified or renewed, on the effective date of this paragraph.

10 (6) EXAMINATIONS OF JURORS. The treatment of sections 805.08 (1) and 979.05
11 (3) of the statutes first applies to jurors examined on the effective date of this
12 subsection.

13 (7) ADMISSIBILITY INTO EVIDENCE. The treatment of sections 889.19 and 908.03
14 (11) of the statutes first applies to records admitted in evidence on the effective date
15 of this subsection.

16 (8) HARBORING A FELON. The treatment of section 946.47 (3) of the statutes first
17 applies to violations of section 946.47 (1) of the statutes committed on the effective
18 date of this subsection.

19 (9) PUBLIC UTILITY CONTRACTS. The treatment of section 196.52 (1) (g) of the
20 statutes first applies to contracts or arrangements that are entered into, or that are
21 extended, modified or renewed, on the effective date of this subsection.

22 (10) REAL ESTATE TRANSFER FEES. The treatment of section 77.25 (15), (15m) and
23 (15s) of the statutes first applies to conveyances of real estate made on the effective
24 date of this subsection.

1 (11) WORKER'S COMPENSATION. The treatment of sections 102.07 (5) and 102.51
2 (2) (a) of the statutes first applies to injuries or deaths occurring on the effective date
3 of this subsection.

4 (12) ENGAGING IN FARMING OPERATIONS. The treatment of section 182.001 (1) (a)
5 of the statutes first applies to farming operations engaged in on the effective date of
6 this subsection.

7 (13) EXECUTIONS ON RETIREMENT PLANS. The treatment of section 815.18 (3) (j)
8 6. b. of the statutes first applies to executions issued on the effective date of this
9 subsection.

10

~~(END)~~

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1999

Nonstat File Sequence: **EEE**

LRB _____ / _____
_____ : _____ : _____

INITIAL APPLICABILITY

- In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the budget action phrase, execute: create → action: → *NS: → 93XX
For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # [93] . **Initial applicability;**

.....
 (#1) () A DONATION OF BONE MARROW BY MINOR
 The treatment of section 14.6.3.4 (c)(2)
 14.6.3.4 (c)(2)

..... of the statutes
 first applies to petitions filed under section 14.6.3.4 (5)(a)
 of the statutes on the effective date of this subsection.

- In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # ____ . **Initial applicability;**

.....
 (#1) () This act first applies to

1999

Nonstat File Sequence: **EEE**

LRB _____ / _____

_____ : _____ : _____

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # [93] . **Initial applicability;**

..... (CS)

(#1) () Actions to Compel Support.

..... The treatment of sections ..

767.08. (1)(b)

..... of the statutes

first applies to actions to compel support commenced on the

effective date of this subsection. This subsection does not

preclude commencing an action to compel support that was

legally required prior to the effective date of this subsection.

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # . **Initial applicability;**

.....

(#1) () This act first ap-
 plies to

1999

Nonstat File Sequence: **EEE**

LRB _____ / _____

_____ : _____ : _____

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "___" or "()" only if a "frozen" number is needed.

SECTION # [93] **Initial applicability;**

INJUNCTIONS

CS

(#1) () DOMESTIC ABUSE RESTRAINING ORDERS AND

The treatment of sections ..

813.12 (1)(b)

..... of the statutes first applies to actions commenced under section 813.12 of the statutes on the effective date of this subsection. This subsection does not preclude the commencement of an action based on domestic abuse, as defined in section 813.12 (1)(a) of the statutes, occurring prior to the effective date of this subsection.

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "___" or "()" only if a "frozen" number is needed.

SECTION # **Initial applicability;**

(#1) () This act first applies to

.....

1999

Nonstat File Sequence: **EEE**

LRB _____ / _____
_____ : _____ : _____

INITIAL APPLICABILITY

- In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the budget action phrase, execute: create → action: → *NS: → 93XX
For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9300 department code; and fill in "____" or "()" only if a "frozen" number is needed.

SECTION # 93 **Initial applicability;**

.....
 (CS)
 (#1) (#) JUVENILE JUSTICE.
 (a) () Juvenile court action The treatment of sections ..
 938.02(15)

 of the statutes
 first applies to

- In the component bar:
For the action phrase, execute: create → action: → *NS: → inappl
For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ **Initial applicability;**

.....
 (#1) () This act first ap-
 plies to

as follows:

(a) With respect to sections 938.13 (7), 938.25 (1) and 938.255 (1) (b) of the statutes, to petitions filed with the juvenile court on the effective date of this paragraph

and 938.52 (1) (f) of the statutes to a juvenile who is placed ^{in the home of a relative} in physical custody on the effective date of this ~~subsection~~ paragraph.

(c) With respect to section 938.235 (2) of the statutes, to a ^{guardian ad litem} guardian ad litem who is appointed on the effective date of this paragraph. of the statutes

(d) With respect to section 938.34 (3) (a) and (4) (a) to a dispositional order that is entered on the effective date of this paragraph.

(e) With respect to section 938.38 (4) (b) and (5) (a) ~~6. am.~~ of the statutes, to a ^{permanency} permanency plan that is filed on the effective date of this paragraph and, with respect to section 938.38 (5) (c) 6. am. of the statutes, to

a permanent plan that is reviewed on the effective date of this paragraph.

it (F) with respect to section 938.51(1)(c) (intro.), 2, and 3, ^{1d} (2)(a), ^x (1g)(a) and ^x (4)(a) of the statutes, to an adult relative of a ^{victim} ~~delinquent~~ and a juvenile's delinquent act who meets the ^{criteria} criteria under section 938.51 (1)(c) of the statutes on the effective date of this paragraph.

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: 11/11/1999

To: Representative Hundertmark

Relating to LRB drafting number: LRB-3803

Topic

Description of relatives--by blood, adoption or marriage

Subject(s)

Children - miscellaneous

1. **JACKET** the draft for introduction

Rep. John Hundertmark

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.

Gordon M. Malaise, Senior Legislative Attorney
Telephone: (608) 266-9738