

2001 ASSEMBLY BILL 574

October 16, 2001 – Introduced by Representatives KESTELL, SUDER, LADWIG, JESKEWITZ, WASSERMAN, AINSWORTH, J. FITZGERALD, KREIBICH, SERATTI, TOWNSEND, LEIBHAM, NASS and STONE, cosponsored by Senators DARLING and ROESSLER. Referred to Committee on Children and Families.

- 1 **AN ACT to amend** 48.415 (9) (a), 48.415 (9) (b) and 48.42 (2m) of the statutes;
2 **relating to:** termination of the parental rights of the mother of a child
3 conceived as a result of a sexual assault committed by the mother.

Analysis by the Legislative Reference Bureau

Under current law, a person's parental rights over a child may be terminated involuntarily on various grounds including the ground of parenthood as a result of a sexual assault, which is established by proving that the child was conceived as a result of nonconsensual sexual intercourse, sexual intercourse with a child under 16 years of age, or repeated acts of sexual intercourse with a child under 16 years of age. Currently, conception as a result of sexual assault may be proved by a final judgment of conviction or other evidence indicating that the person who may be the *father* of the child committed, during a possible time of conception, a sexual assault against the *mother* of the child. This bill permits the parental rights of either parent of a child who was conceived as a result of a sexual assault committed by that parent to be terminated on the grounds of parenthood as a result of sexual assault.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

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1 **SECTION 1.** 48.415 (9) (a) of the statutes is amended to read:

2 48.415 **(9)** (a) Parenthood as a result of sexual assault, which shall be
3 established by proving that the child was conceived as a result of a sexual assault in
4 violation of s. 940.225 (1), (2)₁ or (3), 948.02 (1) or (2)₁ or 948.025. Conception as a
5 result of sexual assault as specified in this paragraph may be proved by a final
6 judgment of conviction or other evidence produced at a fact-finding hearing under
7 s. 48.424 indicating that the person ~~who may be the father of the child~~ whose parental
8 rights are sought to be terminated committed, during a possible time of conception,
9 a sexual assault as specified in this paragraph against the ~~mother~~ other parent of the
10 child.

11 **SECTION 2.** 48.415 (9) (b) of the statutes is amended to read:

12 48.415 **(9)** (b) If the conviction or other evidence specified in par. (a) indicates
13 that the child was conceived as a result of a sexual assault in violation of s. 948.02
14 (1) or (2), the ~~mother of the child~~ parent who was the victim of the sexual assault may
15 be heard on her that parent's desire for the termination of the father's other parent's
16 parental rights.

17 **SECTION 3.** 48.42 (2m) of the statutes is amended to read:

18 48.42 **(2m)** NOTICE NOT REQUIRED. Except as provided in this subsection, notice
19 is not required to be given to a person who may be the ~~father~~ parent of a child
20 conceived as a result of a sexual assault in violation of s. 940.225 (1), (2)₁ or (3), 948.02
21 (1) or (2)₁ or 948.025 committed by that parent if a physician attests to his or her belief
22 that a sexual assault as specified in this subsection has occurred or if ~~the~~ that person
23 ~~who may be the father of the child~~ has been convicted of sexual assault as specified
24 in this subsection for conduct which may have led to the child's conception. A person
25 who under this subsection is not given notice does not have standing to appear and

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1 contest a petition for the termination of his that person's parental rights. This
2 subsection does not apply to a person who may be the father parent of a child
3 conceived as a result of a sexual assault in violation of s. 948.02 (1) or (2) if that person
4 was under 18 years of age at the time of the sexual assault.

SECTION 4. Initial applicability.

6 (1) This act first applies to petitions for termination of parental rights under
7 section 48.42 (1) of the statutes filed on the effective date of this subsection, but does
8 not preclude consideration of a sexual assault in violation of section 940.225 (1), (2),
9 or (3), 948.02 (1) or (2), or 948.025 of the statutes that occurred before the effective
10 date of this subsection in determining whether to terminate, or to find grounds to
11 terminate, the parental rights of a person under section 48.415 (9) of the statutes,
12 as affected by this act.

13 (END)