

2001 DRAFTING REQUEST

Bill

Received: **09/26/2001**

Received By: **malaigm**

Wanted: **Soon**

Identical to LRB:

For: **Steve Kestell (608) 266-8530**

By/Representing: **Dave Matzen**

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

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Children - TPR and adoption**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kestell@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Termination of parental rights on grounds of parenthood as a result of sexual assault committed by mother

Instructions:

Expand s. 48.415 (9) to permit TPR of mother who is parent as a result of sexual assault committed by her.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 09/26/2001	hhagen 10/01/2001					S&L
/1			jfrantze 10/01/2001		lrb_docadmin 10/01/2001	lrb_docadmin 10/02/2001	

FE Sent For:

<END>

At
Intro.

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1/?	malaigm	1/1 hmk 10/1/01	J 10/1/01	Self 10/1/01			

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3878/10
GMM:m.k.m

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1 AN ACT ...; relating to: termination of the parental rights of the mother of a child
2 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:

3 SECTION 1. 48.415 (9) (a) of the statutes is amended to read:
4 48.415 (9) (a) Parenthood as a result of sexual assault, which shall be
5 established by proving that the child was conceived as a result of a sexual assault in

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

History: 1979 c. 330; 1983 a. 189 s. 329 (5); 1983 a. 326; 1983 a. 447 ss. 8, 67; 1983 a. 488, 538; 1987 a. 355, 383; 1989 a. 86; 1993 a. 235, 395; 1995 a. 77, 108, 225, 275; 1997 a. 35, 80, 237, 292, 294; 1999 a. 9, 32; 2001 a. 2.

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

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

History: 1979 c. 330; 1983 a. 189 s. 329 (5); 1983 a. 326; 1983 a. 447 ss. 8, 67; 1983 a. 488, 538; 1987 a. 355, 383; 1989 a. 86; 1993 a. 235, 395; 1995 a. 77, 108, 225, 275; 1997 a. 35, 80, 237, 292, 294; 1999 a. 9, 32; 2001 a. 2.

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

15 48.42 (2m) NOTICE NOT REQUIRED. Except as provided in this subsection, notice
 16 is not required to be given to a person who may be the ~~father~~ parent of a child
 17 conceived as a result of a sexual assault in violation of s. 940.225 (1), (2), or (3), 948.02
 18 (1) or (2), or 948.025 committed by that parent if a physician attests to his or her belief
 19 that a sexual assault as specified in this subsection has occurred or if ~~the~~ that person
 20 ~~who may be the father of the child~~ has been convicted of sexual assault as specified
 21 in this subsection for conduct which may have led to the child's conception. A person
 22 who under this subsection is not given notice does not have standing to appear and
 23 contest a petition for the termination of ~~his~~ that person's parental rights. This subsection does not

1 apply to a person who may be the ~~father~~ parent of a child conceived as a result of a
2 sexual assault in violation of s. 948.02 (1) or (2) if that person was under 18 years of
3 age at the time of the sexual assault.

History: 1973 c. 263; 1977 c. 354; 1979 c. 330; 1981 c. 81 s. 33; 1981 c. 391; 1983 a. 447; 1985 a. 94; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1989 a. 86; 1993 a. 395, 446; 1995 a. 108, 225, 275, 352; 1997 a. 35, 80, 191, 237; 1999 a. 9, 83.

4 **SECTION 4. Initial applicability.**

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

12

(END)



2001 BILL

Gordon -
this is done
please read
us the
Tacket
Thanks
Dave (with
file)
6-25-00

- 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.

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