

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-AB651)**

Received: **01/28/2002**

Received By: **kahlepj**

Wanted: **Soon**

Identical to LRB:

For: **Terese Berceau (608) 266-3784**

By/Representing: **Tom Powell**

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

Drafter: **kahlepj**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Changes related to the presumption against custody for abuse

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**Instructions:**

See Attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>        | <u>Reviewed</u>      | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u>            | <u>Required</u> |
|--------------|-----------------------|----------------------|------------------------|----------------|----------------------------|----------------------------|-----------------|
| /?           | kahlepj<br>01/28/2002 | hhagen<br>01/29/2002 |                        | _____          |                            |                            |                 |
| /1           |                       |                      | pgreensl<br>01/29/2002 | _____          | lrb_docadmin<br>01/29/2002 | lrb_docadmin<br>01/29/2002 |                 |
| /2           | kahlepj               | hhagen               | kfollet                | _____          | lrb_docadmin               | lrb_docadmin               |                 |

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|--------------|----------------|-----------------|------------------|----------------|------------------|-----------------|-----------------|
|              | 01/30/2002     | 01/30/2002      | 01/30/2002 _____ |                | 01/30/2002       | 01/30/2002      |                 |

FE Sent For:

<END>

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| /?           | kahlepj<br>01/28/2002 | hhagen<br>01/29/2002 |                                      | ==<br>==               |                            |                            |                 |
| /1           |                       | 1/2 hnh<br>1/30/02   | pgreensl<br>01/29/2002<br>kj<br>1/30 | ==<br>==<br>kj<br>1/30 | lrb_docadmin<br>01/29/2002 | lrb_docadmin<br>01/29/2002 |                 |

01/29/2002 04:55:51 PM  
Page 2

*LRBa1198*

FE Sent For:

<END>

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|--------------|----------------|-------------------|--------------|----------------|------------------|-----------------|-----------------|
| /?           | kahlepj        | 11 hnh<br>1/29/02 | 1/29<br>pg   | 1/29<br>SELF   |                  |                 |                 |

FE Sent For:

<END>

**Kahler, Pam**

---

**From:** Powell, Thomas  
**Sent:** Monday, January 28, 2002 3:33 PM  
**To:** Kahler, Pam  
**Subject:** FW: amendments to AB 651

Pam,

Rep. Berceau is requesting the following amendments (attached document) to the bill you drafted for her: AB651 (LRB3064/4).

It has already had a public hearing, with an executive session coming within the next couple weeks -- so there is a little bit of a rush on it.

Thanks much,

Tom Powell

Research Assistant for Rep. Berceau

-----Original Message-----

**From:** Patti Seger [mailto:pattis@wcadv.org]  
**Sent:** Monday, January 28, 2002 1:49 PM  
**To:** Powell, Thomas; Mary Lauby; Tess Meuer  
**Subject:** amendments to AB 651

Here's my understanding of what we are doing...

p.

01/28/2002

Proposed amendments to AB 651

The following are the amendments that were agreed to during a meeting w/ members of the State Bar Family Law Section and Rep. Terese Berceau regarding AB 651. Changes are underlined or highlighted.

1. Section 4, beginning Line 7...

**SECTION 4.** 767.24 (2) (d) of the statutes is created to read:

767.24 (2) (d) 1. Notwithstanding pars. (am), (b), and (c), and subject to subd. 2., if the court finds by a preponderance of the evidence that a party has engaged in a pattern or serious incident of interspousal battery, as described under s. 940.19 or 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (a), there is a rebuttable presumption that it is detrimental to the child and not in the best interest of the child to award joint or sole legal custody to that party. The presumption may be rebutted only by a preponderance of the evidence of all of the following:...

2. Section 4, beginning Line 18...

Replace the current language w/ the following:

b. It is in the best interest of the child for the party who committed the battery or abuse to be awarded joint or sole custody based on consideration by the court of all factors enumerated in sec. 767.24(5).

3. Section 6, beginning Line 19...

4. Requiring the party who committed the battery or abuse to attend and complete, to the satisfaction of the court, a certified treatment program or provider for batterers as a condition of exercising his or her periods of physical placement.

4. Section 6, beginning Line 5...

8. Notwithstanding s. 767.045 (5), requiring the continued appointment of a guardian ad litem for the child. Note: this section has a deleted section rather than a change section... ~~[or requiring an investigation by an attorney or guardian ad litem for the child.]~~ will be removed.

put all into one amendment (for now)  
per Tom Powell



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa1198/1  
PJK:hmh

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~  
ASSEMBLY AMENDMENT,  
TO 2001 ASSEMBLY BILL 651

*D-note  
soon  
(1-28)*

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

2 1. Page 4, line 14: delete "clear and convincing" and substitute "a  
3 preponderance of".

4 2. Page 4, line 18: delete lines 18 to 24 and substitute:

5 "b. It is in the best interest of the child for the party who committed the battery  
6 or abuse to be awarded joint or sole legal custody based on a consideration of the  
7 factors under sub. (5) ~~XXXXXX~~".

8 3. Page 6, line 20: after "batterers" insert ", or a course of treatment from a  
9 person certified to provide treatment to batterers,".

10 4. Page 7, line 6: delete that line. *space*

11 (END)

*D-note*



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa1198/dm  
PJK: *dmh*

*Date*

Note that one of the considerations for overcoming the presumption under s. 767.24 (2) (d) 1. a. is that the batterer has completed a certified treatment program for batterers. Do you want to add the "certified provider" concept that was added to s. 767.24 (6) (g) 4.? Does the language that was added to s. 767.24 (6) (g) 4. for a certified provider accomplish what you want?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa1198/1dn  
PJK:hmh:pg

January 29, 2002

Note that one of the considerations for overcoming the presumption under s. 767.24 (2) (d) 1. a. is that the batterer has completed a certified treatment program for batterers. Do you want to add the "certified provider" concept that was added to s. 767.24 (6) (g) 4.? Does the language that was added to s. 767.24 (6) (g) 4. for a certified provider accomplish what you want?

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Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

1-30

Patti ~~Seeger~~ Seeger

① do add provider to 767.24 ~~(b)(1)~~  
(2)(d) 1. a.

② instead of "course of treatment" language,

(attend & complete) "treatment for batterers provided through a  
certified <sup>treatment</sup> ~~treatment~~ program or by a  
certified <sup>treatment</sup> ~~treatment~~ provider"



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa1198/2  
PJK:hmh:pg  
rmis <sup>stays</sup> <sub>mind</sub>

ASSEMBLY AMENDMENT,  
TO 2001 ASSEMBLY BILL 651

SOON  
(1-30)  
D-note

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

2 1. Page 4, line 14: delete "clear and convincing" and substitute "a  
3 preponderance of".

Insert A

4 2. Page 4, line 18: delete lines 18 to 24 and substitute:

5 "b. It is in the best interest of the child for the party who committed the battery  
6 or abuse to be awarded joint or sole legal custody based on a consideration of the  
7 factors under sub. (5).".

Insert B

8 3. Page 6, line 20: after "batterers" insert " or a course of treatment from a  
9 person certified to provide treatment to batterers,".

10 4. Page 7, line 6: delete that line.

11 (END)

D-note

**2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa1198/2ins  
PJK:kmb:pg

**INSERT A**

- 1           ✓  
1           **1.** Page 4, line 16: delete “a certified treatment program for batterers” and  
2 substitute “treatment for batterers provided through a certified treatment program  
3 or by a certified treatment provider”.

**(END OF INSERT A)**

**INSERT B**

- 4           ✓  
4           **2.** Page 6, line 20: delete “a certified treatment program for batterers” and  
5 substitute “treatment for batterers provided through a certified treatment program  
6 or by a certified treatment provider”.

**(END OF INSERT B)**

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa1198/2dn

PJK:~~hnh~~  
hnh

*Date*

This redraft changes the language related to treatment for batterers provided by a certified treatment provider and adds that language to s. 767.24 (2) (d) 1. a., which is created in the draft. These changes are made in accordance with a telephone conversation I had with Patti Seger.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa1198/2dn  
PJK:hml:kjf

January 30, 2002

This redraft changes the language related to treatment for batterers provided by a certified treatment provider and adds that language to s. 767.24 (2) (d) 1. a., which is created in the draft. These changes are made in accordance with a telephone conversation I had with Patti Seger.

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