

2001 DRAFTING REQUEST

Bill

Received: **01/05/2001**

Received By: **malaigm**

Wantcd: **Soon**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Fossum**

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

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - TPR and adoption**

Extra Copies:

Pre Topic:

DOA:.....Fossum -

Topic:

Transfer of custody of child for adoption

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 01/05/2001	gilfokm 01/05/2001		_____			
/1			jfrantze 01/06/2001	_____	lrb_docadmin 01/07/2001		
/2	malaigm 01/10/2001	gilfokm 01/10/2001	pgreensl 01/11/2001	_____	lrb_docadmin 01/11/2001		

FE Sent For:

<END>

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/1		1/2-1/11/01 10-01	jfrantze 01/06/2001	PG/RS	lrb_docadmin 01/07/2001		
FE Sent For:			1/11/01 PG				

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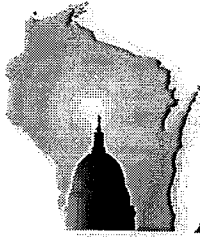
See Attached

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1/?	malaigm	1-1/5-01 King	J 1/6	1/6			

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

**TOMMY G. THOMPSON
GOVERNOR**

**GEORGE LIGHTBOURN
SECRETARY**

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842
TTY (608) 267-9629

Date: January 4, 2001

To: Steve Miller, Director
Legislative Reference Bureau

From: Gretchen A. Fossum, Budget Analyst *GA*
State Budget Office

Subject: Drafting Instructions for the 2001-03 Budget Bill

Please arrange for the following item to be included in the 2001-31 budget bill:

State Custody of Children for Adoption

Background:

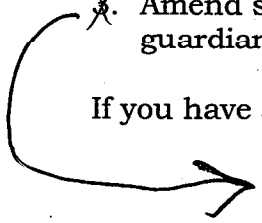
Under current law, the state may petition a court to transfer legal custody of a child to a county or tribe if adoptive placement is not achieved in two years. Upon transfer a child to the county, the state continues to be the child's guardian.

Requested Change:

1. Amend s. 48.43(7) and s. 48.485 to allow the state to petition the county or tribal court to transfer custody after one year. *if not adoptable.*

- No* ~~1.~~ Create a provision that the state may exceed the one year limit if adoption is possible, under special circumstances determined by the department, within the current law two year criteria. *may already exceed now, permissive, not mandatory*
- ~~2.~~ Amend s. 48.43(7) to remove the provision that the state remain the child's guardian after legal custody has been returned to the county. *48.57 (1)(e) or (hm)*

If you have any questions on this request, please contact me at 266-2288.



*not all counties authorized to accept g'ship
only 48.57 (1)(e) or (hm)*

*1. DAFS remain guardian unless
48.57 (1)(e) or (hm)*



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-18267

GMM...:ki...

1
King

Soon

DOA:.....Fossum – Transfer of custody of child for adoption

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Print w/line #15

AN ACT ^{DON'T GEN. CRT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, if the parental rights of all living parents of a child are terminated or if a child has no living parents, the court assigned to exercise jurisdiction under the children's code (juvenile court) may transfer guardianship of the child to DHFS, which is then responsible for securing the adoption of the child. If a permanent adoptive placement is not in progress two years after entry of the termination of parental rights (TPR) or guardianship order, DHFS may petition the juvenile court to transfer legal custody of the child to a county department, but DHFS remains the guardian of the child. This bill permits DHFS to petition the juvenile court to transfer to a county department legal custody of such a child and, if the county department is authorized to accept guardianship of children, guardianship of the child, if a permanent adoptive placement is not in progress one year after entry of the TPR or guardianship order.

Similarly, under current law, an American Indian tribal court in this state may appoint DHFS as guardian or legal custodian of a child who has no parents, or whose parents' parental rights to the child have been terminated by the tribal court, for the purpose of making an adoptive placement for the child. If a permanent adoptive placement is not in progress two years after entry of the TPR or guardianship order, DHFS may petition the tribal court to transfer legal custody or guardianship of the

m

m

m

child back to the tribe. This bill permits DHFS to petition the tribal court to transfer legal custody or guardianship of such a child back to the tribe, if a permanent adoptive placement is not ~~in~~ progress one year after entry of the TPR or guardianship order.

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

SECTION 1. 48.43 (7) of the statutes is amended to read:

48.43 (7) If the agency specified under sub. (1) (a) is the department and a permanent adoptive placement is not in progress ~~2-years~~ one year after entry of the order, the department may petition the court to transfer legal custody of the child to a county department. ~~The legal custody of the child and, if the county department is authorized to accept guardianship under s. 48.57 (1) (e) or (hm), guardianship of the child, and the court shall transfer the child's legal custody and guardianship of the child to the county department as specified in the petition. The If the county department is not authorized to accept guardianship under s. 48.57 (1) (e) or (lm), the department shall remain the child's guardian.~~

History: 1979 c. 330; 1983 a. 27, 219, 286; 1985 a. 70, 176, 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1993 a. 395, 446; 1995 a. 275; 1997 a. 237.

SECTION 2. 48.485 of the statutes is amended to read:

48.485 Transfer of tribal children to department for adoption. If the department accepts guardianship or legal custody or both from an American Indian tribal court under s. 48.48 (3m), the department shall seek a permanent adoptive placement for the child. If a permanent adoptive placement is not in progress within ~~2-years~~ one year after entry of the termination of parental rights order by the tribal court, the department may petition the tribal court to transfer legal custody or guardianship of the child back to the tribe.

History: 1989 a. 31.

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1826/1

GMM:kmg:jf

Soon

2
RMR

DOA:.....Fossum – Transfer of custody of child for adoption

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1

*Don't
Gen. Cat.*
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, if the parental rights of all living parents of a child are terminated or if a child has no living parents, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) may transfer guardianship of the child to DHFS, which is then responsible for securing the adoption of the child. If a permanent adoptive placement is not in progress two years after entry of the termination of parental rights (TPR) or guardianship order, DHFS may petition the juvenile court to transfer legal custody of the child to a county department, but DHFS remains the guardian of the child. This bill permits DHFS to petition the juvenile court to transfer to a county department legal custody of such a child and, if the county department is authorized to accept guardianship of children, guardianship of the child, if a permanent adoptive placement is not in progress one year after entry of the TPR or guardianship order.

Similarly, under current law, an American Indian tribal court in this state may appoint DHFS as guardian or legal custodian of a child who has no parents, or whose parents' parental rights to the child have been terminated by the tribal court, for the purpose of making an adoptive placement for the child. If a permanent adoptive placement is not in progress two years after entry of the TPR or guardianship order, DHFS may petition the tribal court to transfer legal custody or guardianship of the

child back to the tribe. This bill permits DHFS to petition the tribal court to transfer legal custody or guardianship of such a child back to the tribe, if a permanent adoptive placement is not in progress one year after entry of the TPR or guardianship order.

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

1 **SECTION 1.** 48.43 (7) of the statutes is amended to read:

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3 permanent adoptive placement is not in progress ~~2 years~~ one year after entry of the
4 order, the department may petition the court to transfer legal custody of the child to
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8 the child to the county department as specified in the petition. The If the county
9 department is not authorized to accept guardianship under s. 48.57 (1) (e) or (hm),
10 the department shall remain the child's guardian.

11 **SECTION 2.** 48.485 of the statutes is amended to read:

12 **48.485 Transfer of tribal children to department for adoption.** If the
13 department accepts guardianship or legal custody or both from an American Indian
14 tribal court under s. 48.48 (3m), the department shall seek a permanent adoptive
15 placement for the child. If a permanent adoptive placement is not in progress within
16 ~~2 years~~ one year after entry of the termination of parental rights order by the tribal
17 court, the department may petition the tribal court to transfer legal custody or
18 guardianship of the child back to the tribe.

19

(END)

Insert
2-18 ✓

Reset 2-18

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. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # MM93 2 3 . Initial applicability;

auto ref
"KA"

health and family services

(#1) TRANSFER OF CHILD FOR ADOPTION

..... The treatment of sections ..
48.43 (7) and 48.485 ✓

..... of the statutes
first applies to petitions filed under those sections

on the effective date of this subsection ①

- 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. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Initial applicability;

(#1) () This act first
applies to

Insert 2-18

Nonstat File Sequence: **FFF**

LRB _____/_____/_____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... create → action: → *NS: → effdate
For the text, execute: create → text: → *NS: → effdateA
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. create → action: → *NS: → effdateE
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:
(#1) () The treatment of sections of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:..create → action: → *NS: → 94XX
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 2 3 . Effective dates; *health and family services*.

(#1) *TRANSFER OF CHILD FOR ADOPTION* The treatment of sections *48-43 (7) and 48-485* ✓ of the statutes takes effect on *January 1, 2002*, or on the *day after publication, whichever is later*.

and SECTION 9323 (1) (addition) → auto ref. "KA"
of this act



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1826/2
GMM:kmg:pg

DOA:.....Fossum - Transfer of custody of child for adoption

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

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16 2 years one year after entry of the termination of parental rights order by the tribal
17 court, the department may petition the tribal court to transfer legal custody or
18 guardianship of the child back to the tribe.

19 **SECTION 9323. Initial applicability; health and family services.**

