

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1681/2dn
PJK:cjs:rs

March 28, 2003

Just a couple of notes regarding the latest changes:

1. I spoke with Mike Dsida, who specializes in criminal law at the LRB, about the language for requiring the abusing parent to be sober when the child is exchanged for physical placement. The technical way to express that would be that the person's alcohol concentration, as defined in s. 340.01 (1v), is less than 0.0. That did not seem appropriate for the purposes of this bill under s. 767.24 (6) (g) 5., so I provided that the person not be under the influence, which is used throughout the statutes. Mike also asked if it might be appropriate to have the court order that the person consent to giving a breath sample, on the assumption that a breath sample would be requested if the other parent called law enforcement and law enforcement responded and tried to determine if the person's alcohol concentration was below 0.0. I don't know how technical you want to be with this issue. If you want to be very technical, let me know and, either in this bill or as an amendment, I can specify the alcohol concentration and have the court order the person to consent to giving a breath sample.
2. In s. 767.24 (6) (g) (intro.), I did not include the word "necessary" because it seemed to give the court a way out of ordering any of the listed conditions, e.g., the court might determine that none of the conditions was necessary.

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