Bill

Received: 02/02/2005				Received By: pkahler Identical to LRB: By/Representing: Tony Blodgett				
Wanted: As time permits For: Jeffrey Wood (608) 266-1194								
								This file
May Contact:				Addl. Drafters:				
Subject: Dom. Rel cust./plac./vis.				Extra Copies:				
Submit v	ria email: YES							
Requeste	er's email:	Rep.Wood	J@legis.sta	te.wi.us				
Carbon c	copy (CC:) to:							
Pre Top	ie:	· 1		·				
No speci	fic pre topic gi	ven						
Topic:								
Abuse by	y stepparent as	a factor for mo	dification of	f custody				
Instruct	ions:							
See Attac	ched							
Drafting	g History:							
Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	<u>Jacketed</u>	Required	
/?	pkahler 02/03/2005	kfollett 02/09/2005						
/P1			jfrantze 02/09/200)5	sbasford 02/09/2005			
/1	pkahler 02/09/2005	jdyer 02/12/2005	pgreensl 02/14/200)5	sbasford 02/14/2005	lemery 06/14/2005		

FE Sent For:

<**END**>

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Subject: **Dom. Rel. - cust./plac./vis.** Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Abuse by stepparent as a factor for modification of custody

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>

/? pkahler kfollett

02/09/2005 02/09/2005

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/? pkahler

FE Sent For:

<END>

Kahler, Pam

From:

Blodgett, Tony

Sent:

Tuesday, February 01, 2005 4:19 PM

To:

Kahler, Pam

Subject:

Bill draft request from Rep. Jeff Wood

Hi Pam,

The language requested for the bill is below. It is an addition to 767.325(2) I believe, and if it makes sense please do a preliminary draft first. Let me know if there are any problems or if you have any questions.

Thanks!

Tony Blodgett Legislative Aide Office of Rep. Jeff Wood (608) 266-1194: Office (608) 658-7720: Cell

Tony.Blodgett@legis.state.wi.us

767.325(2)(c)

(g) If there was evidence of either a step parent or significant other engaging in verifiable and substantiated evidence of domestic violence or abuse between the parties, , as defined in s. 813.122 (1) (a) , of the child, as defined in s. 48.02 (2) or evidence of interspousal battery, as described under s. 940.19 or 940.20 (1m) , or domestic abuse, as defined in s. 813.12 (1) (am) , and emotional damage defined in s. 48.02 (1) (gm), and child neglect as defined in s. 48.981(1)(am)4.

The Steven Hubbard Assembly Bill - State Representative Jeff Wood 67th Assembly District



State of Misconsin 2005 - 2006 LEGISLATURE

LRB-1974/7

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION



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An Acres (Br. Co.

AN ACT : relating to: considering abuse or neglect of a child when modifying

custody or physical placement of a child.

Analysis by the Legislative Reference Bureau

Under current law, when a court decides whether to modify custody or physical placement of a child after an initial determination in an action affecting the family, such as a divorce, the court must consider a number of factors, including the factors that the court must consider when making the initial determination as to custody and physical placement. Those factors include, among other things, whether there is evidence that either party has engaged in abuse of the child or each other. This bill provides that when a court determines whether it is in a child's best interest to modify custody or physical placement after an initial determination has been made, in addition to the factors under current law, the court must consider whether a stepparent, person with whom a parent of the child has a dating relationship, or person who resides or has resided regularly or intermittently in the child's home has abused or neglected the child.

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

SECTION 1. 767.325 (5m) of the statutes is renumbered 767.325 (5m) (a) and

4 amended to read:

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767.325 (5m) (a) In all actions to modify legal custody or physical placement orders, the court shall consider the factors under s. 767.24 (5) (am), subject to s. 767.24 (5) (bm), and. Subject to par. (b), the court shall make its determination in a manner consistent with s. 767.24.

History: 1987 a. 355, 364; 1995 a. 27 s. 9126 (19); 1999 a. 9; 2003 a. 130.

SECTION 2. 767.325 (5m) (b) of the statutes is created to read:

767.325 (5m) (b) In determining the best interest of the child under this section, in addition to the factors under s. 767.24 (5) (am), the court shall consider whether there is evidence that any of the following has engaged in abuse, as defined in s. 813.122 (1) (a), of the child or neglected the child:

- 1. A stepparent of the child.
- 2. A person with whom a parent of the child has a dating relationship, as defined in s. 813.12 (1) (ag).
- 3. A person who resides or has resided regularly or intermittently in the same dwelling as the child.

SECTION 3. Initial applicability.

(1) This act first applies to an action to modify an order of legal custody or physical placement that is commenced on the effective date of this subsection.

18 (END)

J-vte

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-1974/dn PJK:....



Under current law, when a court decides whether to modify custody or physical placement of a child, the court must consider the factors under s. 767.24 (5) (am). Section 767.24 (5) (am) 3. somewhat addresses the issue that this draft addresses by requiring the court to consider the interaction and interrationship of the child with any person who may significantly affect the child's best interest. This draft adds that the court must consider abuse or neglect of the child by a stepparent, a "significant other," or a person who lives or has lived in the child's home. The definition of "abuse" in s. 48.02 (1) includes emotional damage.

I did not add that the court must consider whether there is evidence of interspousal battery or domestic abuse (with respect to a parent of the child) because the court is already required to consider that under s. 767.24 (5) (am) 13.

Let me know if you want the factor in this draft to have a greater effect on a judge's decision than simply as a factor for the judge to consider. The judge really should be considering abuse or neglect currently, because abuse or neglect certainly would make the current custodial conditions physically or emotionally harmful to the best interest of the child (see s.767.325 (1) (intro.)) and abuse or neglect would, I think, rebut any presumption that continuing the current placement is in the child's best interest (see s. 767.325 (1) (b) 2. b.).

Pamela J. Kahler Senior Legislative Attorney Phone: (608) 266–2682

E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE FROM THE LEGISLATIVE REFERENCE BUREAU

LRB-1974/P1dn PJK:kjf;jf

February 9, 2005

Under current law, when a court decides whether to modify custody or physical placement of a child, the court must consider the factors under s. 767.24 (5) (am). Section 767.24 (5) (am) 3. somewhat addresses the issue that this draft addresses by requiring the court to consider the interaction and interrelationship of the child with any person who may significantly affect the child's best interest. This draft adds that the court must consider abuse or neglect of the child by a stepparent, a "significant other," or a person who lives or has lived in the child's home. The definition of "abuse" in s. 48.02 (1) includes emotional damage.

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Pamela J. Kahler Senior Legislative Attorney Phone: (608) 266–2682

E-mail: pam.kahler@legis.state.wi.us

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STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU – LEGAL SECTION (608-266-3561)

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State of Misconsin 2005 - 2006 LEGISLATURE

LRB-1974/M PJK:kjf:jf

has a criminal record or

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

a person's criminal record and evidence of

AN ACT to renumber and amend 767.325 (5m); and to create 767.325 (5m) (b)

of the statutes; **relating to:** considering abuse or neglect of a child when modifying custody or physical placement of a child.

Analysis by the Legislative Reference Bureau

Under current law, when a court decides whether to modify custody or physical placement of a child after an initial determination in an action affecting the family, such as a divorce, the court must consider a number of factors, including the factors that the court must consider when making the initial determination as to custody and physical placement. Those factors include, among other things, whether there is evidence that either party has engaged in abuse of the child or each other. This bill provides that when a court determines whether it is in a child's best interest to modify custody or physical placement after an initial determination has been made, in addition to the factors under current law, the court must consider whether a stepparent, person with whom a parent of the child has a dating relationship, or person who resides or has resided regularly or intermittently in the child's home has abused or neglected the child.

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

- **SECTION 1.** 767.325 (5m) of the statutes is renumbered 767.325 (5m) (a) and
- amended to read:

18

1	767.325 (5m) (a) In all actions to modify legal custody or physical placement
2	orders, the court shall consider the factors under s. 767.24 (5) (am), subject to s.
3	767.24 (5) (bm), and. Subject to par. (b), the court shall make its determination in
4	a manner consistent with s. 767.24.
5	SECTION 2. 767.325 (5m) (b) of the statutes is created to read:
6	767.325 (5m) (b) In determining the best interest of the child under this
7	section, in addition to the factors under s. 767.24 (5) (am), the court shall consider
8	whether there is evidence that any of the following has engaged in abuse, as defined
9	in s. 813.122 (1) (a), of the child or neglected the child:
10	1. A stepparent of the child.
11	2. A person with whom a parent of the child has a dating relationship, as
12	defined in s. 813.12 (1) (ag).
13	3. A person who resides or has resided regularly or intermittently in the same
14	dwelling as the child.
15	SECTION 3. Initial applicability.
16	(1) This act first applies to an action to modify an order of legal custody or
17	physical placement that is commenced on the effective date of this subsection.

(END)

Northrop, Lori

From:

Blodgett, Tony

Sent: To:

Subject:

Monday, June 13, 2005 11:44 AM
LRB.Legal
Draft review: LRB 05-1974/1 Topic: Abuse by stepparent as a factor for modification of

custody

It has been requested by <Blodgett, Tony> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1974/1 Topic: Abuse by stepparent as a factor for modification of custody