

ASSEMBLY BILL 521

SECTION 45

1 **SECTION 45.** 48.64 (4) (c) of the statutes is amended to read:

2 48.64 **(4)** (c) The circuit court for the county where the child is placed
3 dispositional order placing a child in a foster home, treatment foster home, or group
4 home was entered or the voluntary agreement under s. 48.63 so placing a child was
5 made has jurisdiction upon petition of any interested party over a child who is placed
6 in a foster home, treatment foster home, or group home. The circuit court may call
7 a hearing, at which the head of the home and the supervising agency under sub. (2)
8 shall be present, for the purpose of reviewing any decision or order of that agency
9 involving the placement and care of the child. If the child has been placed in a foster
10 home, the foster parent may present relevant evidence at the hearing. ~~The court~~
11 ~~shall determine the case so as to promote~~ The petitioner has the burden of proving
12 by clear and convincing evidence that the decision or order issued by the agency is
13 not in the best interests of the child.

NOTE: Provides that the circuit court for the county in which a CHIPS dispositional order placing a child in a foster, treatment foster, or group home was entered or a voluntary agreement so placing a child was made has jurisdiction upon petition of any interested party over a child who is placed in a foster, treatment foster, or group home. This SECTION also provides that if the circuit court holds a hearing to review an agency decision or order involving the care of the child, the petitioner has the burden of proving by clear and convincing evidence that the decision or order is not in the best interests of the child.

14 **SECTION 46.** 48.72 of the statutes is amended to read:

15 **48.72 Appeal procedure.** Except as provided in s. 48.715 (6) and (7), any
16 person aggrieved by the department's refusal or failure to issue, renew, or continue
17 a license or by any action taken by the department under s. 48.715 has the right to
18 an administrative hearing provided for contested cases in ch. 227. To receive an
19 administrative hearing under ch. 227, the aggrieved person shall send to the
20 department a written request for a hearing under s. 227.44 within 10 days after the
21 date of the department's refusal or failure to issue, renew, or continue a license or the

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1 department's action taken under s. 48.715. The department shall hold an
 2 administrative hearing under s. 227.44 within 30 days after receipt of the request
 3 for the administrative hearing unless the aggrieved person consents to an extension
 4 of that time period. Judicial review of the department's decision may be had by any
 5 party in the contested case as provided in ch. 227.

~~NOTE: Specifically grants the BMCW the right to judicial review of the administrative law judge's decision, in cases in which an administrative law judge has made a licensing decision that the BMCW disagrees with and wishes to appeal.~~

~~Section 48.72, stats., sets forth the appeal procedure of foster home licensing decisions. Under s. 48.72, stats., any person aggrieved by DHFS's refusal or failure to issue, renew, or continue a license has the right to an administrative hearing provided for contested cases in ch. 227, stats. Because this statute does not specify that the public licensing agency or child welfare agency also has a right to subsequent judicial review of the administrative law judge's decision on a licensing issue, the BMCW has taken the position that the BMCW does not have the right to challenge decisions of administrative law judges in circuit court.~~

6 **SECTION 47.** 48.78 (2) (a) of the statutes is amended to read:

7 48.78 (2) (a) No agency may make available for inspection or disclose the
 8 contents of any record kept or information received about an individual in its care
 9 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
 10 48.432, 48.433, 48.48 (17) (bm), 48.57 (2m), 48.93, 48.981 (7), 938.51, or 938.78 or by
 11 order of the court.

~~NOTE: Permits a county department or DHFS to make available for inspection or disclose the contents of any record kept or information received about an individual in its care or legal custody in order to provide the notice as required under ss. 48.48 (17) (bm) and 48.57 (2m), as created by the bill when a child receiving child welfare services moves to another county.~~

12 **SECTION 48.** 48.825 (3m) of the statutes is created to read:

13 48.825 (3m) No person may publish by a public medium an advertisement that
 14 violates this section. If the owner, agent, or employee of the public medium receives
 15 a copy of the license of the person or agency requesting the advertisement that
 16 indicates that the person or agency is licensed to provide adoption services in this

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1 state, there is a rebuttable presumption that the advertisement does not violate this
2 section.

3 SECTION 49. 48.825 (5) of the statutes is amended to read:

4 48.825 (5) Any person who violates sub. (2) or (3m) may be fined not more than
5 \$10,000 or imprisoned not more than 9 months or both.

~~NOTE: Prohibits any person from publishing by public medium an adoption advertisement that violates current law relating to advertising for adoption. Under this provision, if the owner, agent, or employee of the public medium receives a copy of the license of the person or agency requesting the advertisement that indicates that the person or agency is licensed to provide adoption services in this state, there is a rebuttable presumption that the advertisement does not violate the prohibition on certain advertising.~~

~~A person who violates this provision is subject to a penalty of a fine not to exceed \$10,000 and imprisonment not to exceed 9 months.~~

6 SECTION 50. 48.833 of the statutes is amended to read:

7 **48.833 Placement of children for adoption by the department, county**
8 **departments, and child welfare agencies.** The department, a county
9 department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under
10 s. 48.60 may place a child for adoption in a licensed foster home or a licensed
11 treatment foster home without a court order if the department, county department
12 ~~under s. 48.57 (1) (e) or (hm) or the,~~ or child welfare agency is the guardian of the child
13 or makes the placement at the request of another agency ~~which~~ that is the guardian
14 of the child and if the proposed adoptive parents have completed the preadoption
15 preparation required under s. 48.84 (1) or the department, county department, or
16 child welfare agency determines that the proposed adoptive parents are not required
17 to complete that preparation. Before placing a child for adoption under this section,
18 the department, county department, or child welfare agency making the placement
19 shall consider the availability of a placement for adoption with a relative of the child
20 who is identified in the child's permanency plan under s. 48.38 or 938.38 or who is

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1 otherwise known by the department, county department, or child welfare agency.
2 When a child is placed under this section in a licensed foster home or a licensed
3 treatment foster home for adoption, the department, county department, or child
4 welfare agency making the placement shall enter into a written agreement with the
5 proposed adoptive parent, which shall state the date on which the child is placed in
6 the licensed foster home or licensed treatment foster home for adoption by the
7 proposed adoptive parent.

8 **SECTION 51.** 48.837 (1) of the statutes is amended to read:

9 48.837 (1) ADOPTIVE IN-STATE ADOPTIVE PLACEMENT. ~~A-~~ When the proposed
10 adoptive parent or parents of a child reside in this state and are not relatives of the
11 child, a parent having custody of a child and the proposed adoptive parent or parents
12 of the child may petition the court for placement of the child for adoption in the home
13 of a person who is not a relative of the child if the home is licensed as a foster home
14 or treatment foster home under s. 48.62.

15 **SECTION 52.** 48.837 (1m) of the statutes is created to read:

16 48.837 (1m) OUT-OF-STATE ADOPTIVE PLACEMENT. Notwithstanding s. 48.988,
17 when the proposed adoptive parent or parents of a child reside outside this state and
18 are not relatives of the child, a parent having custody of a child and the proposed
19 adoptive parent or parents of the child may petition the court for placement of the
20 child for adoption in the home of the proposed adoptive parent or parents, if the home
21 meets the criteria established by the laws of the other state for a preadoptive
22 placement of a child in the home of a nonrelative.

NOTE: ~~Creates a new provision, in the statute relating to preadoptive placement of a child in the home of proposed adoptive parents who are nonrelatives, that applies when the proposed adoptive parents live outside of Wisconsin. Under this provision, when the proposed adoptive parent or parents of a child reside outside this state and are not relatives of the child, a parent having custody of the child and the proposed adoptive~~

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~~parent or parents of the child may petition the juvenile court for placement of the child for adoption in the home of the proposed adoptive parent or parents, if the home meets the criteria established by the laws of the other state for a preadoptive placement of a child in the home of a nonrelative.~~

1 **SECTION 53.** 48.837 (2) (d) of the statutes is created to read:

2 48.837 (2) (d) That the proposed adoptive parents have completed the
3 preadoption preparation required under s. 48.84 (1) or are not required to complete
4 that preparation.

5 **SECTION 54.** 48.837 (4) (c) of the statutes is amended to read:

6 48.837 (4) (c) Shall, when the petition has been filed under sub. (1), order the
7 department or a county department under s. 48.57 (1) (e) or (hm) to investigate the
8 proposed adoptive placement, to interview each petitioner, to provide counseling if
9 requested and to report its recommendation to the court at least 5 days before the
10 hearing on the petition. If a licensed child welfare agency has investigated the
11 proposed adoptive placement and interviewed the petitioners, the court may accept
12 a report and recommendation from the child welfare agency in place of the
13 court-ordered report required under this paragraph.

14 **SECTION 55.** 48.837 (4) (cm) of the statutes is created to read:

15 48.837 (4) (cm) Shall, when the petition has been filed under sub. (1m), request
16 the appropriate agency in the state where the proposed adoptive parent or parents
17 reside to follow the procedure established by the laws of that state to ensure that the
18 proposed adoptive home meets the criteria for a preadoptive placement of the child
19 in the home of a nonrelative.

~~NOTE: Requires the juvenile court to request, rather than order, an out-of-state agency to ensure that the proposed adoptive home meets the criteria for a preadoptive placement of a child in the home of a nonrelative, when the proposed adoptive parents reside outside of Wisconsin and are seeking a preadoptive placement of the child in their home under s. 48.837 (1m) as created by the bill.~~

20 **SECTION 56.** 48.837 (4) (e) of the statutes is amended to read:

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1 48.837 (4) (e) Shall, before hearing the petitions under subs. (2) and (3),
2 ascertain whether the child's paternity of a nonmarital child who is not adopted or
3 whose parents do not subsequently intermarry under s. 767.60 has been
4 acknowledged under s. 767.62 (1) or a substantially similar law of another state or
5 adjudicated in this state or another jurisdiction. If any person has filed a declaration
6 of paternal interest under s. 48.025, the court shall determine the rights of that
7 person. If the child's paternity has not been acknowledged or adjudicated and if no
8 person has filed a declaration under s. 48.025, the court shall attempt to ascertain
9 the paternity of the child and shall determine the rights of any person who may be
10 the father of the child as provided under s. 48.423. The court may not proceed with
11 the hearing on the petitions under this section unless the parental rights of the
12 nonpetitioning parent, whether known or unknown, have been terminated.

NOTE: Provides that before holding a hearing on adoptive placement and TPR petitions filed by the child's parent and the proposed adoptive parent or parents, the court must ascertain whether the paternity of a nonmarital child has been established. If the child's paternity has not been established, the court must attempt to ascertain the paternity of the child and must determine the rights of any person who may be the father of the child. These rights are the rights that are set forth regarding alleged fathers' participation in TPR proceedings under s. 48.42 (2)(b). As under current law, the court may not proceed with the hearing on the petitions unless the parental rights of the nonpetitioning parent have been terminated.

13 SECTION 57. 48.839 (2) (b) of the statutes is amended to read:

14 48.839 (2) (b) If the guardian files a judgment or order of a court under par. (a),
15 the department shall review the judgment or order. If the department determines
16 that the judgment or order has the effect of freeing the child for adoption, if the
17 department has been furnished with a copy of a home study recommending the
18 guardian as an adoptive parent, if a licensed child welfare agency has been identified
19 to provide the services required under sub. (5) and, if the guardian has filed the bond
20 required under sub. (1), and if the guardian has completed the preadoption

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1 preparation required under s. 48.84 (1) or the department has determined that the
2 guardian is not required to complete that preparation, the department shall certify
3 to the U.S. immigration and naturalization service that all preadoptive
4 requirements of this state that can be met before the child's arrival in the United
5 States have been met.

6 **SECTION 58.** 48.839 (2) (c) of the statutes is amended to read:

7 48.839 (2) (c) If the guardian files an instrument other than a judgment or order
8 of a court under par. (a), the department shall review the instrument. If the
9 department determines that the instrument has the effect under the laws of the
10 foreign jurisdiction of freeing the child for adoption, if the department has been
11 furnished with a copy of a home study recommending the adoptive parents, if a
12 licensed child welfare agency has been identified to provide the services required
13 under sub. (5) and, if the guardian has filed the bond required under sub. (1), and if
14 the guardian has completed the preadoption preparation required under s. 48.84 (1)
15 or the department has determined that the guardian is not required to complete that
16 preparation, the department shall certify to the U.S. immigration and naturalization
17 service that all preadoptive requirements of this state that can be met prior to the
18 child's arrival in the United States have been met.

19 **SECTION 59.** 48.84 of the statutes is created to read:

20 **48.84 Preadoption preparation for proposed adoptive parents. (1)**

21 Before a child may be placed under s. 48.833 for adoption by a proposed adoptive
22 parent who has not previously adopted a child, before a proposed adoptive parent
23 who has not previously adopted a child may petition for placement of a child for
24 adoption under s. 48.837, and before a proposed adoptive parent who has not
25 previously adopted a child may bring a child into this state for adoption under s.

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1 48.839, the proposed adoptive parent shall complete the preadoption preparation
2 required under this section. The preparation shall be provided by a licensed child
3 welfare agency, a licensed private adoption agency, or a state-funded post-adoption
4 resource center. If the proposed adoptive parent does not reside in this state, he or
5 she may meet this requirement by obtaining equivalent preparation in his or her
6 state of residence.

7 (2) The department shall promulgate rules establishing the number of hours
8 of preadoption preparation that is required under sub. (1) and the topics covered
9 under that preparation. The preparation shall include training on issues that may
10 confront adoptive parents, in general, and that may confront adoptive parents of
11 special needs children or foreign children.

12 (3) A proposed adoptive parent who petitions to adopt a child under s. 48.837
13 or 48.839 shall pay the costs of the preadoption preparation required under sub. (1).
14 The ~~county~~ department of the ~~county~~ of residence of a proposed adoptive parent with
15 whom a child is placed under s. 48.833, ~~or, if the adoptive parent resides in a county~~
16 ~~with a population of 500,000 or more, the department,~~ shall pay the costs of the
17 preadoption preparation required under sub. (1) ^{for}

NOTE: ~~Requires a nonrelative proposed adoptive parent who is a first-time adoptive parent to obtain preadoption preparation on issues that may confront adoptive parents. The preparation may be provided by a licensed child welfare agency, a licensed private adoption agency, or a state-funded post-adoption resource center. If the proposed adoptive parent lives in another state, he or she may obtain equivalent preparation in that state. DHFS is required to promulgate rules on the number of hours of preadoption preparation that is required, as well as the topics to be covered.~~

~~This SECTION also requires the proposed adoptive parents to pay the costs of the required preadoption preparation, unless the child is being adopted from the child welfare system.~~

18 SECTION 60. 48.91 (2) of the statutes is amended to read:

19 48.91 (2) In an adoption proceeding for a nonmarital child who is not adopted
20 or whose parents do not subsequently intermarry under s. 767.60, the court shall

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1 establish whether the rights of any persons who have filed declarations of paternal
2 interest under s. 48.025 have been determined or whether the child's paternity has
3 been acknowledged under s. 767.62 (1) or a substantially similar law of another state
4 or adjudicated in this state or in another jurisdiction. If the court finds that no such
5 determination has been made child's paternity has not been acknowledged or
6 adjudicated, the court shall proceed, prior to any action on the petition for adoption,
7 to attempt to ascertain the paternity of the child and the rights of any person who
8 has filed a declaration under s. 48.025 shall determine the rights of any person who
9 may be the father of the child as provided under s. 48.423. The court may not proceed
10 with the hearing on the petition for adoption unless the parental rights of the
11 nonpetitioning parent, whether known or unknown, have been terminated.

~~NOTE: Provides that, at the final adoption hearing, the juvenile court must determine whether a nonmarital child's paternity has been established. If the child's paternity has not been established, the juvenile court must attempt to ascertain the paternity of the child and must determine the rights of any person who may be the father of the child. The bill specifies that the juvenile court may not proceed with the hearing on the petition for adoption unless the parental rights of the nonpetitioning parent have been terminated.~~

12 **SECTION 61.** 48.913 (1) (c), (i) and (m) of the statutes are amended to read:

13 48.913 (1) (c) Maternity clothes for the child's birth mother, ~~not to exceed a~~
14 reasonable in an amount not to exceed \$300.

15 (i) Living expenses of the child's birth mother, in an amount not to exceed
16 \$1,000 \$5,000, if payment of the expenses by the proposed adoptive parents or a
17 person acting on their behalf is necessary to protect the health and welfare of the
18 birth mother or the fetus.

19 (m) A gift to the child's birth mother from the proposed adoptive parents, of no
20 greater than \$50 \$100 in value.

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~~NOTE: Under current law, the proposed adoptive parents of a child, or a person acting on behalf of the proposed adoptive parents, may pay the actual cost of various expenses, including the following:~~

- ~~• Maternity clothes for the child's birth mother, not to exceed a reasonable amount.~~
- ~~• Living expenses of the child's birth mother, in an amount not to exceed \$1,000 if payment of the expenses by the proposed adoptive parents or a person acting on their behalf is necessary to protect the health and welfare of the birth mother or fetus.~~
- ~~• A gift to the child's birth mother from the proposed adoptive parents, of no greater than \$50 in value.~~

~~This SECTION does the following:~~

- ~~• Provides that the cost for maternity clothes may not exceed \$300.~~
- ~~• Increases the amount that may be paid for living expenses to \$5,000.~~
- ~~• Increases the amount that may be paid for a gift to the birth mother to \$100.~~

1 **SECTION 62.** 808.04 (7m) of the statutes is amended to read:

2 808.04 (7m) An appeal from a judgment or order terminating parental rights
3 or denying termination of parental rights shall be initiated by filing the notice
4 required by s. 809.107 (2) within 30 days after the date of entry of the judgment or
5 order appealed from. Notwithstanding s. 809.82 (2) (b), this time period may not be
6 enlarged unless the judgment or order was entered as a result of a petition under s.
7 48.415 that was filed by a representative of the public under s. 48.09.

~~NOTE: Provides that the time in which to file a notice of appeal of a final judgment in a TPR case may be enlarged if the judgment or order was entered as a result of a petition for involuntary TPR filed by a district attorney, corporation counsel, or other representative of the public.~~

8 **SECTION 63.** 808.04 (8) of the statutes is amended to read:

9 808.04 (8) If the record discloses that the judgment or order appealed from was
10 entered after the notice of appeal or intent to appeal was filed, the notice of appeal
11 shall be treated as filed after such that entry and on the day thereof of the entry.

~~NOTE: Current s. 808.04 (8), stats., provides that if the record discloses that the judgment or order appealed from was entered after the notice of appeal was filed, the notice of appeal shall be treated as filed after such entry and on the day thereof. Currently, this provision affects a few TPR cases each year when a notice of intent to appeal (which is required in TPR cases, under s. 809.107, stats.) is filed prior to the entry of the judgment or order. In those cases, the notice of intent to appeal is treated as being filed too early and in violation of s. 808.04 (8), stats.~~

~~This SECTION amends s. 808.04 (8), stats., to provide that if the record discloses that the judgment or order appealed from was entered after the notice of appeal or the notice of intent to appeal was filed, the notice shall be treated as filed after the entry and on the day of the entry.~~

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1 **SECTION 64.** 809.107 (5) (am) of the statutes is created to read:

2 809.107 (5) (am) *Notice of abandonment of appeal.* If the person who filed a
3 notice of intent to appeal under sub. (2) and requested a transcript and case record
4 under sub. (4) decides not to file a notice of appeal, that person shall notify the person
5 required to be served under sub. (2) of this decision, within 30 days after the service
6 of the transcript and case record under sub. (4).

~~NOTE: Requires a person who decides not to file a notice of appeal to provide notification to certain persons that an appeal will not be filed, within 30 days after service of the transcript on the person.~~

7 **SECTION 65.** 809.82 (2) (b) of the statutes is amended to read:

8 809.82 (2) (b) Notwithstanding the provisions of par. (a), the time for filing a
9 notice of appeal or cross-appeal of a final judgment or order, other than in an appeal
10 under s. 809.30 or 809.32 or as provided under s. 808.04 (7m), may not be enlarged.

~~NOTE: Provides that the time in which to file notice of appeal of a final judgment in a TPR case may be enlarged as provided under s. 808.04 (7m), stats., as affected by the bill.~~

11 **SECTION 66.** 938.27 (3) (b) 1. a. of the statutes is amended to read:

12 938.27 (3) (b) 1. a. A person who has filed a declaration of paternal interest
13 under s. 48.025.

14 **SECTION 67.** 938.27 (5) of the statutes is amended to read:

15 938.27 (5) Subject to sub. (3) (b), the court shall make every reasonable effort
16 to identify and notify any person who has filed a declaration of paternal interest
17 under s. 48.025, any person who has acknowledged paternity of the child under s.
18 767.62 (1), and any person who has been adjudged to be the biological father of the
19 juvenile in a judicial proceeding unless the biological father's person's parental
20 rights have been terminated.

~~NOTE: Makes the changes as provided in s. 48.27 (3) (b) 1. a. and (5), as affected by this bill, for the parallel provisions under the Juvenile Justice Code.~~

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1 **SECTION 68.** 938.57 (2m) of the statutes is created to read:

2 938.57 (2m) A county department, as soon as practicable after learning that
3 a person who is receiving juvenile welfare services under sub. (1) from the county
4 department has changed his or her county of residence, shall provide notice of that
5 change to the county department of the person's new county of residence. The notice
6 shall include a brief, written description of the services offered or provided to the
7 person by the county department and the name, telephone number, and address of
8 a person to contact for more information.

~~NOTE: Requires notice when a person who is receiving juvenile welfare services moves from a county to another county. See the NOTE to s. 48.48 (17) (b), stats., as created by this bill.~~

9 **SECTION 69.** 938.78 (2) (a) of the statutes is amended to read:

10 938.78 (2) (a) No agency may make available for inspection or disclose the
11 contents of any record kept or information received about an individual in its care
12 or legal custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d)
13 or (5m) (d), or 938.51, or 938.57 (2m) or by order of the court.

~~NOTE: Permits a county department to make available for inspection or disclose the contents of any record kept or information received about an individual in its care or legal custody in order to provide the notice required under s. 938.57 (2m), stats., as created by this bill, when a person receiving juvenile welfare services moves to another county.~~

14 **SECTION 70.** 977.07 (1) (c) of the statutes is amended to read:

15 977.07 (1) (c) For all referrals made under ss. 809.107, 809.30, 974.06 (3) (b)
16 and 974.07 (11), except a referral of a child who is entitled to be represented by
17 counsel under s. 48.23 or 938.23, a representative of the state public defender shall
18 determine indigency. For referrals made under ss. 809.107, 809.30 and 974.06 (3) (b),
19 except a referral of a child who is entitled to be represented by counsel under s. 48.23
20 or 938.23, the representative of the state public defender may, unless a request for
21 redetermination has been filed under s. 809.30 (2) (d) or the defendant's person's

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1 request for representation states that his or her financial circumstances have
2 materially improved, rely upon a determination of indigency made for purposes of
3 trial representation under this section.

NOTE: ~~Permits the State Public Defender representative to rely upon a determination of indigency made for purposes of trial representation for referrals made under s. 809.107, stats. which is the statute relating to appeals in TPR proceedings, unless a request for a redetermination is filed or the person's request for representation states that his or her financial circumstances have materially improved.~~

4 **SECTION 71. Nonstatutory provisions.**

5 (1) PREADoption PREPARATION. The department of health and family services
6 shall submit in proposed form the rules required under section 48.84 (2) of the
7 statutes, as created by this act, to the legislative council staff under section 227.15
8 (1) of the statutes no later than the first day of the 4th month beginning after the
9 effective date of this subsection.

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10 **SECTION 72. Initial applicability.**

, 48.423 (2),

48.423,

11 (1) NOTICE OF AND PARTICIPATION IN TERMINATION OF PARENTAL RIGHTS
12 PROCEEDINGS. The treatment of sections 48.42 (1) (a), (1g), (2) (b) (intro.) and 1. and
13 (b) and (3) (a), 48.422 (6) (a), ~~48.423~~ 48.837 (4) (e), and 48.91 (2) of the statutes, the
14 renumbering and amendment of sections 48.42 (2m) and 48.43 (6) of the statutes,
15 and the creation of sections 48.42 (2m) (b) and 48.43 (6) (b) and (c) of the statutes first
16 apply to a termination of parental rights petition filed on the effective date of this
17 subsection.

18 (2) NOTICE TO COUNTY WHEN PERSON RECEIVING SERVICES CHANGES COUNTY OF
19 RESIDENCE. The treatment of sections 48.48 (17) (bm), 48.57 (2m), 48.78 (2) (a), 938.57
20 (2m), and 938.78 (2) (a) of the statutes first applies to a person who changes his or
21 her county of residence on the effective date of this subsection.

22 (3) TERMINATION OF PARENTAL RIGHTS GROUNDS.

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Court orders required to contain the notice under - 49 - section 48.356 (2) of the statutes granted

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1 (a) The treatment of section 48.415 (2) (a) 3. of the statutes first applies to court
2 orders required to contain the notice under section 48.356 (2) or 938.356 (2) of the
3 statutes entered on the effective date of this subsection.

4 (b) The treatment of section 48.415 (10) (a) of the statutes first applies to
5 ~~petitions for termination of parental rights filed~~ on the effective date of this
6 paragraph but does not preclude consideration of prior orders of a court terminating
7 parental rights with respect to a child who is not the subject of the petition in
8 determining whether to terminate, or to find grounds to terminate, the parental
9 rights of a person under section 48.415 (10) of the statutes, as ~~created~~ affected by this act.

10 (4) TERMINATION OF PARENTAL RIGHTS APPEALS. The treatment of sections 48.43
11 (6m), 808.04 (7m) and (8), 809.107 (5) (am), and 809.82 (2) (b) of the statutes first
12 applies to judgments or orders granted under section 48.43 of the statutes, as
13 affected by this act, on the effective date of this paragraph.

14 (5) DISPOSITIONAL ORDERS. The renumbering and amendment of section 48.355
15 (2) (b) 1. of the statutes and the creation of section 48.355 (2) (b) 1. a., b., c., and d.
16 of the statutes first applies to dispositional orders granted on the effective date of this
17 subsection.

18 (6) FAIR HEARINGS FOR FOSTER PARENTS. The treatment of section 48.64 (4) (a) and
19 (c) of the statutes first applies to a head of home to whom an agency provides notice
20 of intent to remove a child from the home on the effective date of this subsection.

21 (7) JUDICIAL REVIEW. The treatment of section 48.72 of the statutes first applies
22 to a decision made or action taken by the department of health and family services
23 on the effective date of this subsection.

Enst 49-20

ASSEMBLY BILL 521

1 (8) ADVERTISING RELATING TO ADOPTION. The treatment of section 48.825 (3m)
2 and (5) of the statutes first applies to advertisements published on the effective date
3 of this subsection.

4 (9) PAYMENT OF BIRTH PARENTS' EXPENSES. The treatment of section 48.913 (1) (c),
5 (i), and (m) of the statutes first applies to the payment of expenses that are incurred
6 on the effective date of this subsection.

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7 (10) PREADOPTON PREPARATION. The treatment of sections 48.833, 48.837 (2) (d),
8 48.839 (2) (b) and (c), and 48.84 of the statutes first applies to a child placed for
9 adoption under section 48.833 of the statutes, as affected by this act, a petition for
10 adoptive placement of a child filed under s. 48.837 (2) of the statutes, as affected by
11 this act, or a child brought into this state for purposes of adoption under section
12 48.839 of the statutes, as affected by this act, on the effective date of this subsection.

13 SECTION 73. Effective dates. This act takes effect on the day after publication,
14 except as follows:

48.423 (2),

48.423,

15 (1) DECLARATION OF PATERNAL INTEREST. The treatment of sections 46.03 (7) (bm),
16 48.025 (1), (5) and (6), 48.27 (3) (b) 1. a., 48.27 (5), 48.42 (1) (a), (1g), (2) (b) (intro.)
17 and 1. and (bm), and (3) (a), 48.422 (6) (a), ~~48.423~~, 48.837 (4) (e), 48.91 (2), 938.27 (3)
18 (b) 1. a. and (5) of the statutes, the renumbering of section 48.025 (3) of the statutes,
19 the renumbering and amendment of sections 48.025 (2), 48.42 (2m), and 48.43 (6) of
20 the statutes, and the creation of sections 48.025 (2) (b) and (d) and (3) (a), (c), and (d),
21 48.42 (2m) (b), and 48.43 (6) (b) and (c) of the statutes and SECTION 72 (10) of the bill
22 take effect on the first day of the 3rd month beginning after publication.

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this act
A.R. C
(10)

23 (2) PREADOPTON PREPARATION. The treatment of sections 48.833, 48.837 (2) (d),
24 48.839 (2) (b) and (c), and 48.84 of the statutes and SECTION 72 (1) of this act take
25 effect on the first day of the 12th month beginning after publication.

ASSEMBLY BILL 521

~~NOTE: Provides that the bill takes effect on the first day after publication except that the provisions relating to declarations of paternal interest take effect on the first day of the 3rd month beginning after publication of the bill and the provisions relating to preadoption preparation take effect on the first day of the 12th month beginning after the publication of the bill.~~

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(INSERT A)

Introduction

This substitute amendment makes various changes relating to termination of parental rights (TPR) and adoption. Specifically, the substitute amendment modifies current law relating to declarations of paternal interest by persons who may be the father of a nonmarital child and notice to those persons of TPR proceedings, the grounds for TPR, procedures in TPR proceedings, and appeals in TPR proceedings. The substitute amendment also modifies current law relating to adoption of children, agency decisions concerning foster homes, and persons receiving child welfare services.

Declarations of paternal interest and notice to putative fathers

Declarations of paternal interest. Under current law, any person claiming to be the father of a nonmarital child whose paternity has not been established may file with the Department of Health and Family Services (DHFS) a declaration of paternal interest in matters affecting the child. The declaration may be filed at any time before a TPR and must be in writing and signed by the person filing the declaration. DHFS must send a copy of the declaration to the mother, who may file a written response to the declaration. Filing a declaration does not extend parental rights to the person filing the declaration, but it does entitle that person to notice of a child in need of protection or services (CHIPS), a juvenile in need of protection or services (JIPS), or a TPR proceeding. Current law requires DHFS to release a declaration of paternal interest to the Department of Workforce Development or a county child support agency upon request or to any other person with a direct and tangible interest in the declaration and permits DHFS to release a declaration to any other person only upon court order.

This substitute amendment makes various changes relating to declarations of paternal interest. Subject to certain exceptions, the substitute amendment requires a declaration to be filed before the child's birth or within 14 days after the child's birth and permits a declaration to be revoked at any time. The substitute amendment also requires a declaration or revocation to be verified upon oath or affirmation and, in the case of a minor, to also be signed by the parent or guardian of the minor. The substitute amendment requires DHFS to keep declarations confidential, except that DHFS must, on the request of a court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) in a CHIPS, JIPS, TPR, or adoption proceeding or of a person authorized to file a CHIPS, JIPS, TPR, or adoption petition, search its files to determine whether a person who may be the father of the child who is the subject of the proceeding or action has filed a declaration. If DHFS has a declaration on file, it must issue to the requester a certified copy of the declaration. If DHFS does not have a declaration on file, it must issue to the requester a certified statement that no declaration could be located.

Notice of TPR proceedings to putative fathers. Under current law, certain persons who may be the father of a nonmarital child whose paternity has not been established must be served with a summons and petition notifying the person of a TPR proceeding involving the child. Those persons include, in addition to a person

who files a declaration of paternal interest, a person who is alleged to be the father of the child or who, based on statements made by the mother or other information, may be the father of the child, and a person who has lived in a familial relationship with the child and who may be the father of the child. A person who receives a summons and petition in a TPR proceeding has standing to appear and contest the TPR petition and, if grounds for TPR are found, may present evidence relevant to the disposition of the case and make alternative dispositional recommendations.

This substitute amendment makes certain changes relating to notice to a person who may be the father of a nonmarital child under one year of age whose paternity has not been established of a TPR proceeding concerning the child. Specifically, the substitute amendment permits the petitioner in a proceeding to terminate the parental rights of such a person to file with the TPR petition an affidavit signed by the child's mother that identifies or describes the father. If an affidavit is filed, the petitioner is required to notify any man alleged to be the father in the affidavit that he may file a declaration of paternal interest within 21 days after the date on which the notification was mailed. Also, under the substitute amendment, if an affidavit is filed, notice of the TPR proceeding need not be provided to a person who is alleged to be the father of the child or who, based on statements made by the mother or other information, may be the father of the child and instead is only required to be provided to all of the following:

1. A person who has filed an unrevoked declaration of paternal interest, within 14 days after the birth of the child or within 21 days after the notice of his right to file a declaration is mailed, whichever is later.
2. A person who has lived in a familial relationship with the child and who may be the father of the child.

The substitute amendment also specifies that a person who may be the father of a nonmarital child whose paternity has not been established, by virtue of the fact that the person had sexual intercourse with the mother of the child, is considered to be on notice that a pregnancy and a TPR proceeding might result, has the duty to protect his own rights and interests, and, therefore, is entitled to actual notice of the TPR proceeding only as provided in current law, as affected by the substitute amendment. In addition, the substitute amendment specifies that a person who is not entitled to actual notice of a TPR proceeding does not have standing to appear and contest the petition, present evidence relevant to the issue of disposition, or make alternative dispositional recommendations unless the person appears at the hearing, establishes paternity, and proves all of the following:

1. That the person resides and has resided in another state where the mother of the child resided or was located at the time of or after the conception of the child.
2. That the mother left that state without notifying or informing that person that she could be located in this state.
3. That the person attempted to locate the mother through every reasonable means, but did not know or have reason to know that the mother was residing or located in this state.

4. That the person has complied with the requirements of the state where the mother previously resided or was located to protect and preserve his paternal interests in matters affecting the child.

Finally, the substitute amendment prohibits a mother who has completed an affidavit relating to the identity of the child's father from attacking a TPR judgment on the basis that the father was not identified correctly.

Grounds for involuntary TPR

Applicability. Under current law, the parental rights of a parent to his or her child may be terminated involuntarily under various grounds. Currently, those grounds apply only to a parent of a child. The substitute amendment provides that the grounds for involuntary TPR apply as well to a person who *may* be the parent of a child.

Failure to assume parental responsibility. Under current law, the ground of failure to assume parental responsibility is established by proving that the parent has *never* had a substantial parental relationship with the child. "Substantial parental relationship" is defined as the acceptance and exercise of significant responsibility for the daily supervision, education, protection, and care of the child. This substitute amendment permits this ground to be established by proving that the parent has *not* had a substantial parental relationship with the child.

Prior involuntary TPR to another child. Under current law, the ground of prior involuntary TPR to another child may be established by proving that the child who is the subject of the petition has been adjudged to be CHIPS because he or she has been abandoned or has been the victim of abuse or because his or her parent has neglected, refused, or been unable for reasons other than poverty to provide the necessary care, clothing, medical or dental care, or shelter so as to seriously endanger the physical health of the child (neglect) and that, within three years of the CHIPS adjudication, a juvenile court has ordered an involuntary TPR with respect to another child of the person.

This substitute amendment extends this ground to a child who is found to be CHIPS because he or she is *at risk* of being abused or neglected and whose parent has failed to remedy the conditions responsible for court intervention, if there is a substantial likelihood that the parent will not remedy those conditions within the nine-month period following the TPR fact-finding hearing, and to a child who is born after the filing of a TPR petition on this ground with respect to a sibling of the child.

Continuing need of protection or services. Under current law, the ground of continuing CHIPS may be established by proving that the child has been adjudged to be CHIPS and placed outside of his or her home by the juvenile court; that the agency responsible for the care of the child and the family has made a reasonable effort to provide the services ordered by the juvenile court; that the child has been outside the home for a cumulative period of six months or longer pursuant to juvenile court orders; and that the parent has failed to meet the conditions established for the safe return of the child to the home and there is a substantial likelihood that the parent will not meet those conditions within the 12-month period following the TPR fact-finding hearing.

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This substitute amendment permits a TPR on the ground of continuing CHIPS if there is a substantial likelihood that the parent will not meet the conditions established for the safe return of the child to the home within nine months, rather than 12 months, following the TPR fact-finding hearing.

Procedures in TPR proceedings

Penalty for false statement in TPR proceeding. Under current law, a person may be convicted of perjury for orally making a false statement under oath or affirmation or of false swearing for making or subscribing to a false statement under oath or affirmation. There is no general penalty, however, for making a false statement if it is not made under oath or affirmation.

This substitute amendment creates a penalty for making a false statement or representation of material fact in the course of a TPR proceeding with the intent of preventing a person who is entitled to receive notice of the TPR proceeding from receiving notice. Under the substitute amendment, making such a false statement or representation is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both. The substitute amendment, however, permits a person to refuse to make a statement or representation of material fact in the course of a TPR proceeding for the purpose of preventing a person who is entitled to receive notice of the TPR proceeding from receiving notice if the person fears that making such a statement or representation would place the person or another person at risk of domestic abuse and if the refusal is because of a recent overt act, attempt, or threat that caused him or her reasonably to believe that the refusal was the only means of preventing that abuse.

Voluntary consent to TPR by telephone or audiovisual means. Under current law, a parent may give voluntary consent to the termination of his or her parental rights. If the juvenile court finds that it would be difficult or impossible for the parent to appear in person at the hearing, the juvenile court may accept the written consent of the parent given before an embassy or consul official, a military judge, or a judge of any court of record in another county or state or a foreign jurisdiction. This substitute amendment permits a parent who is unable to appear in person at the hearing to provide testimony by telephone or through live audiovisual means, upon request of the parent, unless good cause is shown.

Notice when child is relinquished as a newborn. Under current law, subject to certain exceptions, a copy of the summons and petition in a TPR proceeding must be personally served on the parties to the proceeding. This substitute amendment permits the parents of a child whose custody was relinquished when he or she was less than 72 hours old to be served with the summons and petition in a TPR proceeding by publication in a newspaper instead of by personal service.

Guardian ad litem (GAL) for parent in TPR proceeding. Current law permits the juvenile court to appoint a GAL in any appropriate matter under the Children's Code. This substitute amendment requires a juvenile court to appoint a GAL for a parent who is not competent to participate in a TPR proceeding or to assist counsel or the juvenile court in protecting the parent's rights in a TPR proceeding. The substitute amendment also directs a GAL of such a parent, in a proceeding that involves a child who has been found to be in need of protection or services in which

the parent is contesting the termination of his or her parental rights, to provide information to the juvenile court relating to the parent's competency to participate in the proceeding and to provide assistance to the juvenile court and to the parent's adversary counsel in protecting the parent's rights.

Appeals in TPR proceedings

Time for filing of notice of appeal. Under current law, if a judgment or order that is being appealed was entered after the notice of appeal was filed, the notice of appeal is treated as if it were filed after the judgment or order was entered. An appeal of a TPR judgment, however, is initiated not by the filing of a notice of appeal but rather by the filing of a notice of *intent* to appeal. This substitute amendment provides that if the judgment or order appealed from was entered after the notice of appeal or the notice of intent to appeal was filed, the notice shall be treated as filed after the entry and on the day of the entry.

Notification of abandonment of appeal. Under current law, in a TPR proceeding, a person has 30 days from the date of entry of judgment to file a notice of intent to appeal. Within 15 days after filing this notice, the person must request the transcript and juvenile court record. The clerk of circuit court must serve a copy of the case record on the person filing the notice of intent to appeal within 30 days after the juvenile court record is requested. Within 30 days after service of the transcript, the person filing a notice of intent to appeal must file a notice of appeal and serve a copy of the notice on the required persons. Current law places no obligation on a person who files a notice of intent to appeal, but who decides not to file a notice of appeal, to notify the parties that a notice of appeal will not be filed. This substitute amendment requires a person who decides not to file a notice of appeal to notify the persons who would have been required to be served with the notice of appeal that the appeal will not be pursued.

State Public Defender (SPD) indigency determinations in TPR appeals. Under current law, subject to certain exceptions, a representative of the SPD must determine indigency for a person referred to the SPD who is seeking postdispositional relief in a proceeding under the Children's Code, other than a TPR proceeding. For these referrals, the SPD representative may rely upon a determination of indigency made for purposes of trial representation, unless a request for redetermination of indigency has been filed or the defendant's request for representation states that his or her financial circumstances have materially improved. This substitute amendment permits the SPD representative to rely upon a determination of indigency made for purposes of trial representation for a person referred to the SPD for an appeal in a TPR proceeding, unless a request for a redetermination is filed or the person's request for representation states that his or her financial circumstances have materially improved.

Continuing representation in TPR appeals. Currently, an attorney who represents a person in a TPR proceeding does not automatically continue to represent the person during the appeal process. Under this substitute amendment, an attorney who represents a person in a TPR proceeding continues representation of that person during the appeal process by filing a notice of intent to appeal, unless

the attorney has been previously discharged during the proceeding by the person or by the juvenile court.

Written notification of time limits for TPR appeals. Current law does not require that notice of the time limits within which to appeal a TPR judgment be given to a person whose parental rights are terminated. This substitute amendment requires the juvenile court that orders a TPR to provide written notification of the time limits within which to appeal the TPR order to the person whose parental rights are terminated if the person is present in juvenile court when the order is granted. The person must sign the written notification, indicating that he or she has been notified of those time limits. The person's counsel must file a copy of the signed, written notification with the juvenile court on the date on which the order is granted.

Enlargement of time for filing notice of appeal. Under current law, the time for filing a notice of appeal of a final judgment or order in a TPR proceeding may not be enlarged. This substitute amendment permits the time within which to file a notice of appeal in a TPR case to be enlarged if the judgment or order was entered as a result of a petition for an involuntary TPR that was filed by a district attorney, corporation counsel, or other representative of the public.

Time limit for collateral attack of TPR judgment. Under current law, a person whose parental rights have been terminated may petition for a rehearing on the grounds that new evidence has been discovered affecting the advisability of the juvenile court's adjudication no later than one year after the date on which the TPR judgment was entered. However, a parent who has consented to the TPR or who did not contest the TPR petition may move for relief from the judgment no later than 30 days after entry of the TPR judgment.

This substitute amendment prohibits any person, for any reason, from collaterally attacking a TPR judgment more than one year after the date on which the time limit for filing an appeal from the judgment has expired, or more than one year after the date on which all appeals from the judgment, if any were filed, have been decided, whichever is later.

Adoption of children

Adoption expenses. Under current law, a proposed adoptive parent of a child may make certain payments to the birth parents of the child, including payment for the actual cost of maternity clothes for the child's birth mother, not to exceed a reasonable amount; living expenses of the child's birth mother, in an amount not to exceed \$1,000, if payment of the expenses by the proposed adoptive parent is necessary to protect the health and welfare of the birth mother or fetus; and a gift to the child's birth mother, of no greater than \$50 in value. This substitute amendment places a \$300 cap on the amount that a proposed adoptive parent may pay for the cost of maternity clothes for the birth mother and increases the amount that a proposed adoptive parent may pay for living expenses for the birth mother from \$1,000 to \$5,000 and the amount that a proposed adoptive parent may pay for a gift to the birth mother from \$50 to \$100.

Preadoptive placement with out-of-state petitioners. Under current law, a parent having custody of a child and a proposed adoptive parent of the child who is not a relative of the child may petition the juvenile court for placement of the

(2) (1) (3)

child for adoption in the home of the proposed adoptive parent if the home is licensed as a foster home or treatment foster home. This substitute amendment permits a parent having custody of a child and a proposed adoptive parent who resides out-of-state to petition the juvenile court for the preadoptive placement of the child in the home of the proposed adoptive parent, if the home meets the criteria established by the laws of the state of residence for a preadoptive placement of a child in the home of a nonrelative.

Adoption advertising. Under current law, no person may advertise for the purpose of finding a child to adopt or advertise that the person will find an adoptive home for a child or arrange for or assist in the adoption of a child or will place a child for adoption. This prohibition does not apply to DHFS, a county department of human services or social services (county department), or a child welfare agency licensed by DHFS to place children for adoption (collectively "agency"). This substitute amendment prohibits publishing by a public medium of an adoption advertisement that violates current law relating to adoption advertising.

Preadoption preparation for first-time adoptive parents. Under current law, preadoption preparation is not required of a proposed adoptive parent. This substitute amendment requires a proposed adoptive parent who has not previously adopted a child to obtain preadoption preparation on issues that may confront adoptive parents. The preparation may be provided by a licensed child welfare agency, a licensed private adoption agency, or a state-funded post-adoption resource center. The substitute amendment requires DHFS to promulgate rules on the number of hours of preadoption preparation that is required, as well as on the topics to be covered in the training. The proposed adoptive parents must pay for the training, except that DHFS must pay for the training if the child is placed for adoption by an agency.

Continuation of dispositional orders. Under current law, if a petition for TPR is filed or an appeal from a judgment granting or denying TPR is filed during the year in which a CHIPS dispositional order or an extension order is in effect, the dispositional or extension order remains in effect until all proceedings relating to the petition or appeal are concluded. This substitute amendment provides that a voluntary agreement for the placement of a child, or a guardianship order for a child, also remain in effect until all proceedings relating to a TPR petition or appeal are concluded, as is allowed under current law with respect to CHIPS dispositional or extension orders.

Agency decisions concerning foster homes

Jurisdiction for review of agency decisions. Under current law, the circuit court for the county where a child is placed in a foster home, treatment foster home, or group home has jurisdiction upon the petition of any interested party over the child. The circuit court may call a hearing for the purpose of reviewing any decision or order of the agency that placed the child that involves the placement and care of the child. The court must determine the case so as to promote the best interests of the child. This substitute amendment provides that the circuit court for the county where the dispositional order placing the child in the foster, treatment foster, or group home was entered or a voluntary agreement so placing the child was

made has jurisdiction to review an agency decision or order involving the placement of the child. Under the bill, the petitioner must show by clear and convincing evidence that the agency's decision or order is not in the best interests of the child.

Appeals of licensing decisions. Under current law, any person aggrieved by DHFS's refusal or failure to issue, renew, or continue a license has the right to an administrative hearing and to judicial review of the hearing decision under procedures provided for contested cases. This substitute amendment specifically grants the right to judicial review in a contested case involving a DHFS licensing decision to *any party* in the contested case.

Persons receiving child welfare services

Change in county of residence of child welfare services clients. Current law does not require notice to a new county of residence when a person who is receiving child welfare services moves to another county. This substitute amendment requires the county department or, in Milwaukee County, DHFS, as soon as practicable after learning that a person who is receiving child welfare services has changed his or her county of residence, to provide notice of that change to the county department of the person's new county of residence. Notice must be provided to DHFS if the person's new county of residence is Milwaukee County.

(END OF INSERT)

Insert 23-10

ASSEMBLY AMENDMENT 3
TO 2005 ASSEMBLY BILL 521

or that the child who is the subject of the petition ^{was born}
after the filing of a petition under this subsection ^{whose}
subject is a sibling of the child ^{whose}

September 8, 2005 - Offered by COMMITTEE ON CHILDREN AND FAMILIES.

At the locations indicated, amend the bill as follows:

1. Page 23, line 6: delete lines 6 to 9 and substitute:

~~SECTION 25g.~~ 48.415 (10) (a) of the statutes is amended to read:

48.415 (10) (a) That the child who is the subject of the petition has been adjudged to be in need of protection or services under s. 48.13 (2), (3) or (10); or that the child who is the subject of the petition has been adjudged to be in need of protection or services under s. 48.13 (3m) or (10m) and the parent has failed to remedy the conditions responsible for court intervention and there is a substantial likelihood that the parent will not remedy those conditions within the 9-month period following the fact-finding hearing under s. 48.424.

2. Page 49, line 5: delete that line and substitute "court orders required to contain the notice under section 48.356 (2) of the statutes entered on the effective date of this"

Insert 23-10

**ASSEMBLY AMENDMENT,
TO 2005 ASSEMBLY BILL 521**

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

2 **1.** Page 23, line 6: delete lines 6 to 9 and substitute:

3 **"SECTION 25d.** 48.415 (10) (a) of the statutes is amended to read:

4 48.415 (10) (a) That the child who is the subject of the petition has been
5 adjudged to be in need of protection or services under s. 48.13 (2), (3) or (3m), (10),
6 or (10m); or that the child who is the subject of the petition was born after the filing
7 of a petition under this subsection whose subject is a sibling of the child.

8 **SECTION 25g.** 48.415 (10) (b) of the statutes is amended to read:

9 48.415 (10) (b) That, within 3 years prior to the date the court adjudged the
10 child who is the subject of the petition to be in need of protection or services as
11 specified in par. (a) or, in the case of a child born after the filing of a petition as
12 specified in par. (a), within 3 years prior to the date of birth of the child, a court has
13 ordered the termination of parental rights with respect to another child of the person



inst 23-10

1 whose parental rights are sought to be terminated on one or more of the grounds
2 specified in this section.

3 **2.** Page 49, line 3: delete "entered" and substitute "granted".

4 **3.** Page 49, line 4: after "(a)" insert "and (b)".

5 **4.** Page 49, line 9: delete "created" and substitute "affected".

6 (END)

(ed of inst)

Insert 30-7

**ASSEMBLY AMENDMENT
TO 2005 ASSEMBLY BILL 521**

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At the locations indicated, amend the bill as follows:

- 1. Page 18, line 18: delete lines 18 to 22 and substitute "or assessment before ordering the examination or assessment. The expenses of".
- 2. Page 19, line 1: delete lines 1 to 6.
- 3. Page 24, line 9: delete "shall" and substitute "may".
- 4. Page 25, line 21: delete lines 21 to 24.
- 5. Page 26, line 1: delete lines 1 and 2 and substitute:
" (c) If an affidavit under par. (a) is not filed with the petition, notice shall be given to an alleged father under sub. (2). "
- 6. Page 27, line 5: delete "or a statement under sub. (1g) (c)".
- 7. Page 30, line 7: after "both." insert no \$ It is not a violation of this subsection for a person to refuse to make a statement or representation of material fact in the



Insert 30-7

1 course of a proceeding under this section for the purpose of preventing a person who
2 is entitled to receive notice of a proceeding under this section from receiving notice
3 if, at the time of the refusal, the person stated that he or she feared that making such
4 a statement or representation would place the person or another person at risk of
5 domestic abuse, as defined in s. 813.12 (1) (am), or abuse, as defined in s. 813.122 (1)
6 (a), and if the person proves that he or she refused to make such a statement or
7 representation because of a recent overt act, attempt, or threat that caused him or
8 her reasonably to believe that refusing to make such a statement or representation
9 was the only means of preventing domestic abuse, as defined in s. 813.12 (1) (am),
10 or abuse, as defined in s. 813.122 (1) (a), to himself or herself or to another.

11 ~~8. Page 34, line 4: delete lines 4 to 23.~~

12 ~~9. Page 35, line 1: delete lines 1 to 21.~~

13 ~~10. Page 49, line 18: delete lines 18 to 20 and substitute:~~

14 ~~“(6m) AGENCY DECISIONS INVOLVING PLACEMENT OF CHILD. The treatment of~~
15 ~~section 48.64 (4) (c) of the statutes first applies to a decision or order of an agency~~
16 ~~involving the placement and care of a child made on the effective date of this~~
17 ~~subsection.”.~~

18 (END)

(end of insert)

Insert 31-12

**ASSEMBLY AMENDMENT 2,
TO 2005 ASSEMBLY BILL 521**

September 8, 2005 - Offered by COMMITTEE ON CHILDREN AND FAMILIES.

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At the locations indicated, amend the bill as follows:

1. Page 31, line 1: delete lines 1 and 2 and substitute:

"SECTION 38d. 48.423 of the statutes is renumbered 48.423 (1) and amended to read:

48.423 (1) RIGHTS TO PATERNITY DETERMINATION. If a man who alleges that he".

2. Page 31, line 11: after "person" insert "meets the conditions specified in sub. (2) or".

3. Page 31, line 12: after that line insert:

~~SECTION 38g.~~ 48.423 (2) of the statutes is created to read:

48.423 (2) RIGHTS OF OUT-OF-STATE FATHERS. A person who may be the father of a nonmarital child who is not adopted or whose parents do not subsequently intermarry under s. 767.60 and whose paternity has not been established may contest the petition, present evidence relevant to the issue of disposition, and make



Insert 31-D

1 alternative dispositional recommendations if the person appears at the hearing,
2 establishes paternity under sub. (1), and proves all of the following by a
3 preponderance of the evidence:

4 (a) That the person resides and has resided in another state where the mother
5 of the child resided or was located at the time of or after the conception of the child.

6 (b) That the mother left that state without notifying or informing that person
7 that she could be located in this state.

8 (c) That the person attempted to locate the mother through every reasonable
9 means, but did not know or have reason to know that the mother was residing or
10 located in this state.

11 (d) That the person has complied with the requirements of the state where the
12 mother previously resided or was located to protect and preserve his paternal
13 interests in matters affecting the child.

- 14 ~~4. Page 48, line 13: delete "48.423".~~
- 15 ~~5. Page 48, line 14: after "(2m)" insert ", 48.423,".~~
- 16 ~~6. Page 48, line 15: after "(2m) (b)" insert ", 48.423 (2),"~~
- 17 ~~7. Page 50, line 17: delete "48.423".~~
- 18 ~~8. Page 50, line 19: after "(2m)," insert "48.423,".~~
- 19 ~~9. Page 50, line 21: after "(2m) (b)," insert "48.423 (2),"~~

(END)

(edit insert)

ISA 49-20

1 course of a proceeding under this section for the purpose of preventing a person who,
 2 is entitled to receive notice of a proceeding under this section from receiving notice
 3 if, at the time of the refusal, the person stated that he or she feared that making such
 4 a statement or representation would place the person or another person at risk of
 5 domestic abuse, as defined in s. 813.12 (1) (am), or abuse, as defined in s. 813.122 (1)
 6 (a), and if the person proves that he or she refused to make such a statement or
 7 representation because of a recent overt act, attempt, or threat that caused him or
 8 her reasonably to believe that refusing to make such a statement or representation
 9 was the only means of preventing domestic abuse, as defined in s. 813.12 (1) (am),
 10 or abuse, as defined in s. 813.122 (1) (a), to himself or herself or to another.

~~8.~~ Page 34, line 4: delete lines 4 to 23.

~~9.~~ Page 35, line 1: delete lines 1 to 21.

~~10.~~ Page 49, line 18: delete lines 18 to 20 and substitute:

~~(am)~~ AGENCY DECISIONS INVOLVING PLACEMENT OF CHILD. The treatment of
 15 section 48.64 (4) (c) of the statutes first applies to a decision or order of an agency
 16 involving the placement and care of a child made on the effective date of this
 17 subsection.

~~(END)~~

(end of insert)