



State of Wisconsin
2015 - 2016 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 41**

February 2, 2016 - Offered by Senator LEMAHIEU.

1 **AN ACT** *to renumber and amend* 48.97; *to amend* 48.81 (6), 48.838 (3), 48.839
2 (2) (b), 48.839 (2) (c), 48.97 (title) and 54.52 (1); and *to create* 48.97 (2), 48.97
3 (3), 69.14 (2) (c) and 69.15 (2) (e) of the statutes; **relating to:** effect and
4 recognition of foreign adoption and guardianship decrees.

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

5 **SECTION 1.** 48.81 (6) of the statutes is amended to read:

6 48.81 (6) The child is being readopted adopted under s. 48.97 (3).

7 **SECTION 2.** 48.838 (3) of the statutes is amended to read:

8 48.838 (3) The department may also charge a fee of not more than \$75 to the
9 adoptive parents for the review and certification of adoption documents, and for the
10 ~~provision of departmental approval of placements as specified in s. 48.97,~~ for
11 adoptions that occur in a foreign country.

1 **SECTION 3.** 48.839 (2) (b) of the statutes is amended to read:

2 48.839 (2) (b) If the guardian files a judgment or order of a court under par. (a),
3 the department shall review the judgment or order. If the department determines
4 that the judgment or order has the effect of freeing the child for adoption, if the
5 department has been furnished with a copy of a home study that was conducted as
6 provided in s. 48.88 (2) recommending the guardian as an adoptive parent, if a
7 licensed child welfare agency has been identified to provide the services required
8 under sub. (5), if the guardian has filed the bond required under sub. (1), and if the
9 guardian has completed the preadoption preparation required under s. 48.84 (1) or
10 the department has determined that the guardian is not required to complete that
11 preparation, the department shall certify to the U.S. ~~immigration and naturalization~~
12 service citizenship and immigration services that all preadoptive requirements of
13 this state that can be met before the child's arrival in the United States have been
14 met.

15 **SECTION 4.** 48.839 (2) (c) of the statutes is amended to read:

16 48.839 (2) (c) If the guardian files an instrument other than a judgment or order
17 of a court under par. (a), the department shall review the instrument. If the
18 department determines that the instrument has the effect under the laws of the
19 foreign jurisdiction of freeing the child for adoption, if the department has been
20 furnished with a copy of a home study recommending the adoptive parents, if a
21 licensed child welfare agency has been identified to provide the services required
22 under sub. (5), if the guardian has filed the bond required under sub. (1), and if the
23 guardian has completed the preadoption preparation required under s. 48.84 (1) or
24 the department has determined that the guardian is not required to complete that
25 preparation, the department shall certify to the U.S. ~~immigration and naturalization~~

1 ~~service citizenship and immigration services~~ that all preadoptive requirements of
2 this state that can be met prior to the child's arrival in the United States have been
3 met.

4 **SECTION 5.** 48.97 (title) of the statutes is amended to read:

5 **48.97 (title) Adoption and guardianship orders of other jurisdictions.**

6 **SECTION 6.** 48.97 of the statutes is renumbered 48.97 (1) and amended to read:

7 **48.97 (1) EFFECT AND RECOGNITION OF ADOPTION DECREES OF OTHER STATES.** When
8 the relationship of parent and child has been created by an order of adoption of a
9 court of any other state ~~or nation~~, the rights and obligations of the parties as to
10 matters within the jurisdiction of this state shall be determined by ~~s. 48.92. If the~~
11 ~~adoptive parents were residents of this state at the time of the foreign adoption, the~~
12 ~~preceding sentence applies only if the department has approved the placement. A~~
13 ~~child whose adoption would otherwise be valid under this section may be readopted~~
14 ~~in accordance with this chapter~~ under s. 48.92 as though the order of adoption was
15 entered by a court of this state.

16 **SECTION 7.** 48.97 (2) of the statutes is created to read:

17 **48.97 (2) EFFECT AND RECOGNITION OF FOREIGN ADOPTION DECREES.** If the adoption
18 of a child who was born in a foreign jurisdiction and who was not a citizen of the
19 United States at the time of birth was finalized under the laws of the jurisdiction
20 from which the child was adopted and if the child was admitted to the United States
21 with an IR-3 or IH-3 visa issued by the U.S. citizenship and immigration services,
22 all of the following apply:

23 (a) The adoption shall be recognized by this state and the rights and obligations
24 of the adoptive parent and child shall be determined under s. 48.92 as though the
25 order of adoption was entered by a court of this state.

1 (b) The adoptive parent shall not be required to readopt the child in this state.

2 (c) Within 365 days of a child being admitted to the United States, the adoptive
3 parent shall submit a letter to the court requesting registration of the foreign
4 adoption order. The parent shall include in the request all of the following:

5 1. Evidence as to the date, place of birth, and parentage of the child.

6 2. A certified or notarized copy of the final order of adoption entered by a court
7 of the foreign jurisdiction and, if that final order is not in English, a certified
8 translation or a notarized copy of a certified translation of that final order.

9 3. A sworn statement by the adoptive parent including all of the following:

10 a. That a home study was completed as required or recognized by this state and
11 the home study recommends the parent as an adoptive parent.

12 b. That the required preadoption training was completed.

13 c. That the adoptive parent is receiving and will receive supervision from a
14 licensed child welfare agency in the United States until the court enters an order
15 registering the foreign adoption order and has satisfied all preadoption training
16 requirements.

17 4. The name and address of the adoptive parents and the child.

18 5. Any other information necessary for the state registrar to prepare a new
19 birth certificate for the child.

20 (d) Upon receipt of the letter under par. (c), the court shall enter an order
21 registering the foreign adoption order, and may change the name of the child to that
22 requested by the adoptive parents. The court shall then transmit the order
23 registering the foreign adoption order to the state registrar.

24 (e) An order registering the foreign adoption order shall have the same effect
25 as an adoption order granted under s. 48.91.

1 **SECTION 8.** 48.97 (3) of the statutes is created to read:

2 48.97 (3) EFFECT AND RECOGNITION OF FOREIGN GUARDIANSHIP DECREES;
3 ADDITIONAL REQUIREMENTS. If a resident of this state has been appointed guardian of
4 a child who was born in a foreign jurisdiction and who was not a citizen of the United
5 States at the time of birth and the child was admitted to the United States with an
6 IR-4 or IH-4 visa issued by the U.S. citizenship and immigration services, the
7 guardian shall adopt the child under s. 48.839.

8 **SECTION 9.** 54.52 (1) of the statutes is amended to read:

9 54.52 (1) A person may at any time bring a petition for the appointment of a
10 standby guardian of the person or estate of an individual who is determined under
11 s. 54.10 to be incompetent, a minor, or a spendthrift, except that, as specified in s.
12 ~~48.97~~ 48.978 a petition for the appointment of a standby guardian of the person or
13 property or both of a minor to assume the duty and authority of guardianship on the
14 incapacity, death, or debilitation and consent, of the minor's parent may be brought
15 under s. 48.978.

16 **SECTION 10.** 69.14 (2) (c) of the statutes is created to read:

17 69.14 (2) (c) This subsection does not apply to a child who was adopted under
18 the circumstances described in s. 48.97 (2).

19 **SECTION 11.** 69.15 (2) (e) of the statutes is created to read:

20 69.15 (2) (e) If the state registrar receives an order under s. 48.97 (2) (d)
21 registering the foreign adoption of a child who was adopted under the circumstances
22 described in s. 48.97 (2), the state registrar shall prepare a birth certificate for the
23 child using the form in use at the time the court submits the information under s.
24 48.97 (2) (d).

25

(END)