

2015 DRAFTING REQUEST

Bill

Received: 1/13/2015 Received By: eshea
Wanted: As time permits Same as LRB: -2073
For: Children and Families 261-8678 By/Representing: Kimber Liedl
May Contact: Drafter: eshea
Subject: Children - child welfare Addl. Drafters:
Children - out-of-home placement Extra Copies:

Submit via email: YES
Requester's email: kimberly.liedl@wisconsin.gov
Carbon copy (CC) to: elisabeth.shea@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Relative notification procedures for children in out-of-home placement

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>
/?	eshea 1/27/2015			_____			
/P1	eshea 3/11/2015	wjackson 2/10/2015	jfrantze 2/10/2015	_____	srose 2/10/2015		
/P2	eshea 3/25/2015	csicilia 3/18/2015	jfrantze 3/18/2015	_____	sbasford 3/18/2015		
/1		wjackson		_____	mbarman	mbarman	

Vers. Drafted

Reviewed
3/26/2015

Typed

Proofed

Submitted
3/26/2015

Jacketed
3/26/2015

Required

FE Sent For:

↳ Not
Needed

<END>

Malaise, Gordon

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Tuesday, January 13, 2015 1:05 PM
To: Malaise, Gordon
Subject: Drafting request re federal Preventing Sex Trafficking and Strengthening Families Act
Attachments: Reasonable and Prudent Parenting Standards.docx; Relative Notification Leg Template.docx; Court Proceedings Leg Template.docx

Hi, Gordon, we have 4 different proposals that we need drafted in response to the new federal law, the Preventing Sex Trafficking and Strengthening Families Act. In order to continue receiving federal child welfare Title IV-E funding, the state must comply with these federal law changes. We would like to draft the four proposals individually, though we will likely merge them into one bill before introduction. Right now, we have 3 of the 4 proposals ready for drafting. I'll send the 4th one sometime this week.

I'm attaching the description of each proposal. Please feel free to give me a call if you have any questions or if you are interested in meeting with staff to discuss the needed changes.

Thanks,
Kimber

Kimberly Liedl

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.261.8678

E: kimberly.liedl@wisconsin.gov

Proposed Legislation for 2015-16 Legislative Session

Division Name

Safety and Permanence

Division Contact

Jonelle Brom

Title

Relative Notification for Children in Out of Home Care

Was this Introduced or Drafted Last Session?

No

Bill/LRB #

Not yet known

Program Impacted

The proposed changes update Wisconsin statutes 48.21 5E and subsequent sections of the statute that address relative notification procedures to conform with recent federal law changes in statute 471(a)(29).

Priority (High, Medium, or Low)

High

Priority Rationale

These changes are required by federal law changes passed in Public Law 113-183, the Preventing Sex Trafficking and Strengthening Families Act". In order to continue receiving federal child welfare Title IV-E funding, which equals approximately \$105 million per year, the state must comply with these federal law changes that became effective September 29, 2014. The state has formally requested an extension to meet the deadline. The new deadline for passage of state statutory language is January 1, 2016.

Summary

This change will align Wisconsin statutes and policies with new federal requirements for children in out-of-home care to expand the relatives notified under current law to include adult parent of a sibling of the child (when the parent has legal custody of such sibling).

Administrative Significance

These changes will involve some additional workload on the part of child welfare workers to locate and engage relatives and documentation in the state data system of these efforts; however, this workload impact is expected to be minor.

Fiscal Effect

As noted above, the workload effect, and therefore the fiscal effect, is expected to be minor.

Impact on Counties or Other Departments

As noted above, a potentially minor workload impact is expected for child welfare caseworkers in counties and the Bureau of Milwaukee Child Welfare to locate and engage additional relatives when a child is placed in out-of-home care.

Known Supporters/Opponents

None

(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 672 (*/uscode/text/42/672*) of this title on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child;

(28) at the option of the State, provides for the State to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of the children for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in section 673 (*/uscode/text/42/673*) (d) (*/uscode/text/42/usc_sec_42_00000673----000-#d*) of this title;

(29) provides that, within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to the following relatives: all adult grandparents, all parents of a sibling of the child, where such parent has legal custody of such sibling, and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—

(A) specifies that the child has been or is being removed from the custody of the parent or parents of the child;

(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

(C) describes the requirements under paragraph (10) of this subsection to become a foster family home and the additional services and supports that are available for children placed in such a home; and

(D) if the State has elected the option to make kinship guardianship assistance payments under paragraph (28) of this subsection, describes how the relative guardian of the child may subsequently enter into an agreement with the State under section 673 (*/uscode/text/42/673*) (d) (*/uscode/text/42/usc_sec_42_00000673----000-#d*) of this title to receive the payments;

(30) provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term "elementary or secondary school student" means, with respect to a child, that the child is—

(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

= Am 42.21 (5)(e)1.
938.21 (5)(e)1.
of a child or a parent
of a sibling of the ^{juvenile} child
who has legal custody of
that sibling, whether by blood
"



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1439/2 PI
EHS: f: ...
Wg RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 1/27/15

DUE 2/10/15

↑
not a hard date

Gen Cat

1 AN ACT ...; relating to: the notification of relatives when a child is removed from
2 the custody of the child's parent.

of the child

Analysis by the Legislative Reference Bureau

Under current law, when a child is removed from the custody of the child's parent, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) must order the Department of Children and Families, the county department of human services or social services, or the agency primarily responsible for providing services to the child under the custody order to attempt to locate certain of the child's adult relatives and provide them with certain information related to the removal within 30 days after the removal. That information includes notice that the child has been removed from the custody of the child's parents and an explanation of the options that the adult relative has to participate in the care and placement of the child. This bill adds to the adult relatives to whom such notice must be provided a parent of a sibling of the child who has legal custody of that sibling.

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

3 SECTION 1. 48.21 (5) (e) 1. of the statutes is amended to read:
4 48.21 (5) (e) 1. In this paragraph, "adult relative" means a grandparent,
5 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a child

1 or a parent of a sibling of the child who has legal custody of that sibling, whether by
2 blood, marriage, or legal adoption, who has attained 18 years of age.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292; 2001 a. 16, 61, 109; 2005 a. 232; 2007 a. 20; 2009 a. 28, 79, 94; 2011 a. 181; 2013 a. 170.

3 **SECTION 2.** 938.21 (5) (e) 1. of the statutes is amended to read:

4 938.21 (5) (e) 1. In this paragraph, “adult relative” means a grandparent,
5 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a
6 juvenile or a parent of a sibling of the juvenile who has legal custody of that sibling,
7 whether by blood, marriage, or legal adoption, who has attained 18 years of age.

History: 1995 a. 77, 275; 1997 a. 35, 237, 296; 2001 a. 16, 61, 109; 2005 a. 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 180; 2011 a. 181; 2013 a. 20, 214.

8 **SECTION 3. Initial applicability.**

9 (1) This act first applies to a temporary physical custody order entered on the
10 effective date of this subsection.

11

(END)

Shea, Elisabeth

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Monday, March 02, 2015 3:31 PM
To: Shea, Elisabeth; Malaise, Gordon
Subject: FW: Draft review: LRB -1439/P1 Topic: Relative notification procedures for children in out-of-home placement

Hi, Gordon and Lis, here are DCF's comments on LRB-1439/P1:

- For ease of understanding, we recommend changing the wording wherever it appears in the draft from "parent of a sibling of the child who has legal custody of that sibling" to "parent who has legal custody of a sibling of the child".
- Amend s. 48.02(15) Wis. Stats. so that a "parent who has legal custody of a sibling of a child" is considered a relative for purposes of placement. This will relieve such individuals of the requirement that they be licensed as a foster parent within 30 days with up to one 30-day extension.

#938.02(15)

Please let us know if you have any questions.

Thanks,
Kimber

Kimberly Liedl

Legislative Liaison

Department of Children and Families

201 East Washington Avenue

Madison, WI 53703

T: 608.261.8678

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State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1439/P1 P2
EHS:wlj/jf RMR
\$g's

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 3/11/15
Wanted 3/18/15

D-NOTE

Gen Cat

1 AN ACT to amend 48.21 (5) (e) 1. and 938.21 (5) (e) 1. of the statutes; relating
2 to: ~~the~~ notification of relatives when a child is removed from the custody of the
3 child's parent.

and placement of a child with a parent of a sibling of the child who has custody of the sibling of the child who has custody of the sibling

Analysis by the Legislative Reference Bureau

DCF,

Under current law, when a child is removed from the custody of the child's parent, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) must order the Department of Children and Families, the county department of human services or social services, or the agency primarily responsible for providing services to the child under the custody order to attempt to locate certain adult relatives of the child and provide them with certain information related to the removal within 30 days after the removal. That information includes notice that the child has been removed from the custody of the child's parents and an explanation of the options that the adult relative has to participate in the care and placement of the child. This bill adds to the adult relatives to whom such notice must be provided a parent of a sibling of the child who has legal custody of that sibling.

INSERT A

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

INSERT 1-4

4 SECTION 1. 48.21 (5) (e) 1. of the statutes is amended to read:

(1) TEMPORARY PHYSICAL CUSTODY ORDERS.

SECTION 1

5 e.l.

The treatment of sections 48.21 (5)(e)1, and 938.21 (5)(e)1. of the statutes

1 48.21 (5) (e) 1. In this paragraph, "adult relative" means a grandparent,
2 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a child
3 or a parent of a sibling of the child who has legal custody of that sibling, whether by
4 blood, marriage, or legal adoption, who has attained 18 years of age.

INSERT
2-5

5 SECTION 2. 938.21 (5) (e) 1. of the statutes is amended to read:

6 938.21 (5) (e) 1. In this paragraph, "adult relative" means a grandparent,
7 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a
8 juvenile or a parent of a sibling of the juvenile who has legal custody of that sibling,
9 whether by blood, marriage, or legal adoption, who has attained 18 years of age.

10 SECTION 3. Initial applicability.

11 (1) This act first applies to a temporary physical custody order entered on the
12 effective date of this subsection.

13 (END)

d-note

(2) PLACEMENTS OF CHILDREN.
The treatment of sections 48.02 (15) and 938.02 (15) of the statutes first applies to a placement of a child made on the effective date of this subsection.

**2015–2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB–1439/P2ins
EHS:wlj:jf

INSERT A

Under the Children’s Code and the Juvenile Justice Code, a child may be placed with a relative when the child is taken into temporary custody, as a disposition, or as a permanent placement. In addition, in a dispositional order for a child in need of protection or services (CHIPS) proceeding, if there is no less drastic alternative for a child than transferring custody from the parent, the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) must consider transferring custody to a relative whenever possible. The agency preparing a permanency plan for a child must also include in the plan a statement as to the availability of a safe and appropriate placement with a fit and willing relative of the child and, if a decision is made not to place the child with an available relative, a statement as to why placement with the relative is not safe or appropriate. Finally, before the Department of Children and Families (DCF), a county department of human services or social services (county department), or a child welfare agency may place a child for adoption, that agency must consider the availability of an adoptive placement with a relative of the child who is identified in the permanency plan or otherwise known by that agency. This bill adds to the relatives with whom a child may be placed under these circumstances a parent of a sibling of the child who has legal custody of that sibling.

1 **INSERT 1–4**

2 **SECTION 1.** 48.02 (15) of the statutes is amended to read:

3 **48.02 (15)** “Relative” means a parent, stepparent, brother, sister, stepbrother,
4 stepsister, half brother, half sister, brother–in–law, sister–in–law, first cousin, 2nd
5 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding
6 generation as denoted by the prefix of grand, great, or great–great, whether by blood,
7 marriage, or legal adoption, or the spouse of any person named in this subsection,
8 even if the marriage is terminated by death or divorce. For purposes of the
9 application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to
10 1963, “relative” includes an extended family member, as defined in s. 48.028 (2) (am),
11 whether by blood, marriage, or adoption, including adoption under tribal law or

1 custom. For purposes of placement of a child, "relative" also includes a parent of a
2 sibling of the child who has legal custody of that sibling.

History: 1971 c. 41 s. 12; 1971 c. 164; 1973 c. 263; 1977 c. 205, 299, 354, 418, 447, 449; 1979 c. 135, 300, 352; 1981 c. 81; 1983 a. 189, 447, 471; 1985 a. 176; 1987 a. 27, 285, 339; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 107; 1991 a. 39; 1993 a. 98, 375, 377, 385, 446, 491; 1995 a. 27 ss. 2423 to 2426p, 9126 (19), 9145 (1); 1995 a. 77, 275, 352, 448; 1997 a. 27, 104, 191, 292; 1999 a. 9; 2001 a. 16, 59, 69; 2005 a. 113, 232, 277, 344; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 28; 2009 a. 94 ss. 2 to 9, 231; 2009 a. 185 s. 86; 2009 a. 302, 334; 2013 a. 362.

3 INSERT 2-5

4 SECTION 2. 938.02 (15) of the statutes is amended to read:

5 938.02 (15) "Relative" means a parent, stepparent, brother, sister, stepbrother,
6 stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd
7 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding
8 generation as denoted by the prefix of grand, great, or great-great, whether by blood,
9 marriage, or legal adoption, or the spouse of any person named in this subsection,
10 even if the marriage is terminated by death or divorce. For purposes of the
11 application of s. 938.028 and the federal Indian Child Welfare Act, 25 USC 1901 to
12 1963, "relative" includes an extended family member, as defined in s. 938.028 (2) (a),
13 whether by blood, marriage, or adoption, including adoption under tribal law or
14 custom. For purposes of placement of a child, "relative" also includes a parent of a
15 sibling of the child who has legal custody of that sibling.

History: 1995 a. 77, 216, 352, 448; 1997 a. 27, 85, 181, 191; 1999 a. 9, 162; 2001 a. 16, 59; 2005 a. 33, 284; 2005 a. 232, 344, 387; 2005 a. 443 s. 265; 2007 a. 20 ss. 3780 to 3782, 9121 (6) (a); 2009 a. 28, 94, 302, 334; 2011 a. 32, 258; 2011 a. 260 s. 80; 2013 a. 237.

Juvenile Juvenile

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1439/P2dn

EHS:wj:jf

late

gjs

Kimber:

You requested that we shorten the phrase “parent of a sibling of the child who has legal custody of that sibling” to “parent who has legal custody of a sibling of the child.” However, I think the extra language is necessary for clarity. Without it, the phrase could be interpreted to include a parent (of other children) who is granted custody of a child of whom he or she is not the parent. This is broader than the scope of the federal language. Therefore, I did not make this change.

Elisabeth Shea
Legislative Attorney
(608) 266-5446
elisabeth.shea@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1439/P2dn
EHS:cjs:jf

March 18, 2015

Kimber:

You requested that we shorten the phrase “parent of a sibling of the child who has legal custody of that sibling” to “parent who has legal custody of a sibling of the child.” However, I think the extra language is necessary for clarity. Without it, the phrase could be interpreted to include a parent (of other children) who is granted custody of a child of whom he or she is not the parent. This is broader than the scope of the federal language. Therefore, I did not make this change.

Elisabeth Shea
Legislative Attorney
(608) 266-5446
elisabeth.shea@legis.wisconsin.gov

Shea, Elisabeth

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Wednesday, March 25, 2015 2:11 PM
To: Shea, Elisabeth
Subject: LRB 1439/P2 Topic: Relative notification procedures for children in out-of-home placement

Hi, Lis, we have no further edits to LRB 1439/P2. Please draft a /1 and a companion bill for jacketing. Thanks again for your help with all of our drafts. It's appreciated!
Kimber

Kimberly Liedl

Legislative Liaison

Department of Children and Families

201 East Washington Avenue
Madison, WI 53703

T: 608.261.8678

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State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1439/P2

EHS:wlj&cjs:jf

Stays

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

In 3/25/15

wanted 3/26/15

NO CHANGES

1 **AN ACT to amend** 48.02 (15), 48.21 (5) (e) 1., 938.02 (15) and 938.21 (5) (e) 1. of
2 the statutes; **relating to:** the notification of relatives when a child is removed
3 from the custody of the child's parent and placement of a child with a parent of
4 a sibling of the child who has custody of the sibling.

Analysis by the Legislative Reference Bureau

Under the Children's Code and the Juvenile Justice Code, a child may be placed with a relative when the child is taken into temporary custody, as a disposition, or as a permanent placement. In addition, in a dispositional order for a child in need of protection or services (CHIPS) proceeding, if there is no less drastic alternative for a child than transferring custody from the parent, the court assigned to exercise jurisdiction under the Children's Code (juvenile court) must consider transferring custody to a relative whenever possible. The agency preparing a permanency plan for a child must also include in the plan a statement as to the availability of a safe and appropriate placement with a fit and willing relative of the child and, if a decision is made not to place the child with an available relative, a statement as to why placement with the relative is not safe or appropriate. Finally, before the Department of Children and Families (DCF), a county department of human services or social services (county department), or a child welfare agency may place a child for adoption, that agency must consider the availability of an adoptive placement with a relative of the child who is identified in the permanency plan or otherwise known by that agency. This bill adds to the relatives with whom a child may be placed under these circumstances a parent of a sibling of the child who has legal custody of that sibling.

Under current law, when a child is removed from the custody of the child's parent, the juvenile court must order DCF, the county department, or the agency primarily responsible for providing services to the child under the custody order to attempt to locate certain adult relatives of the child and provide them with certain information related to the removal within 30 days after the removal. That information includes notice that the child has been removed from the custody of the child's parents and an explanation of the options that the adult relative has to participate in the care and placement of the child. This bill adds to the adult relatives to whom such notice must be provided a parent of a sibling of the child who has legal custody of that sibling.

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

1 **SECTION 1.** 48.02 (15) of the statutes is amended to read:

2 48.02 (15) "Relative" means a parent, stepparent, brother, sister, stepbrother,
3 stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd
4 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding
5 generation as denoted by the prefix of grand, great, or great-great, whether by blood,
6 marriage, or legal adoption, or the spouse of any person named in this subsection,
7 even if the marriage is terminated by death or divorce. For purposes of the
8 application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to
9 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am),
10 whether by blood, marriage, or adoption, including adoption under tribal law or
11 custom. For purposes of placement of a child, "relative" also includes a parent of a
12 sibling of the child who has legal custody of that sibling.

13 **SECTION 2.** 48.21 (5) (e) 1. of the statutes is amended to read:

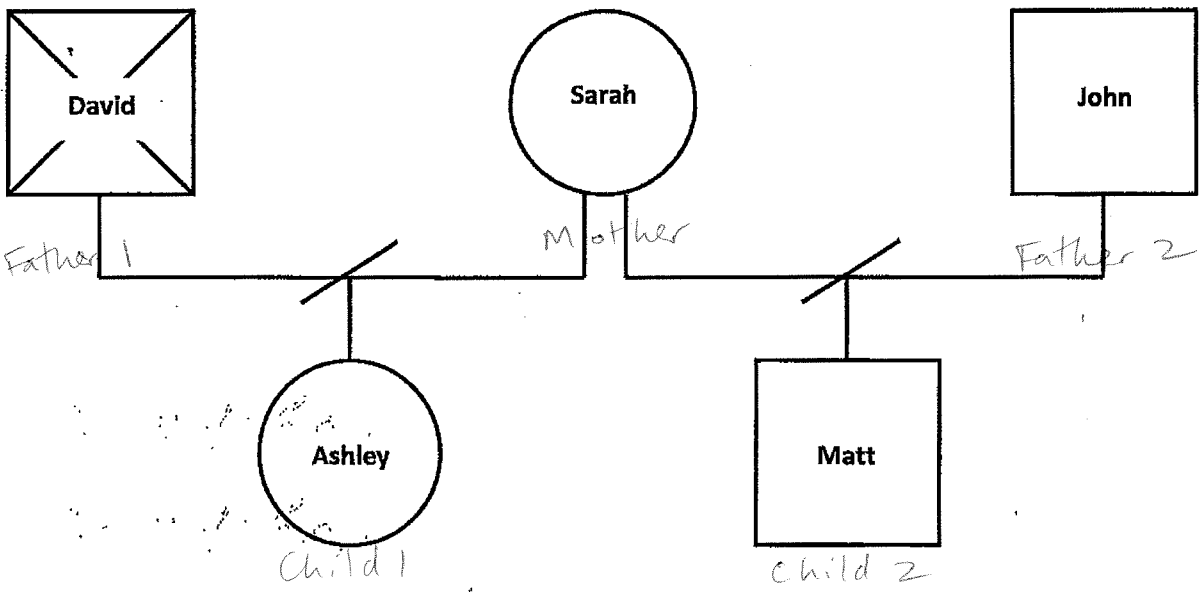
14 48.21 (5) (e) 1. In this paragraph, "adult relative" means a grandparent,
15 great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of a child
16 or a parent of a sibling of the child who has legal custody of that sibling, whether by
17 blood, marriage, or legal adoption, who has attained 18 years of age.

Barman, Mike

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Thursday, March 26, 2015 11:50 AM
To: LRB.Legal
Subject: Draft Review: LRB -1439/1 Topic: Relative notification procedures for children in out-of-home placement

Please Jacket LRB -1439/1 for the ASSEMBLY.

AB 193 - Relative Notification Example



This genogram illustrates the relationship described below for an example of the relative notification being pursued through AB 193 as required under federal law:

Sarah and David were in a relationship and had a child, Ashley. David passed away, so Sarah began raising Ashley as a single mom. Sarah entered into a relationship with John and they also had a child, Matt. Sarah and John's relationship ended; John began raising Matt as a single dad (i.e. he has legal and physical custody of Matt). Sarah's new boyfriend maltreated Ashley and Sarah does not believe Ashley. Therefore, Ashley was taken into protective custody and is placed into out-of-home care. Since John has custody of Matt, Ashley's half-brother, he is required to receive a relative notification that Ashley is in care and may be considered as a placement option for Ashley as a relative caregiver.

Committee + authors asked to put this in drafting file. Per Jessica Ozalp at Leg Council

Added to file 09-08-15 per EHS