



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1030/1
GMM&EHS:cjs:rs

2015 ASSEMBLY BILL 42

February 17, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to
Committee on Children and Families.

1 **AN ACT** *to renumber and amend* 48.981 (9) (a) and 48.981 (9) (b); *to amend*
2 48.245 (3), 48.255 (1) (a), 48.42 (1) (a), 48.63 (1) (c), 48.977 (4) (b) 1., 48.979 (1m)
3 (a) 1., 48.981 (9) (title), 49.32 (1) (a), 54.34 (1) (a), 938.245 (3) and 938.255 (1)
4 (a); and *to create* 48.47 (8) (b) and (c) of the statutes; **relating to:** including a
5 statement as to whether a child has been adopted in a petition for a proceeding
6 under the Children’s Code or Juvenile Justice Code, in a petition for
7 guardianship of a minor, in an informal disposition under the Children’s Code
8 or the Juvenile Justice Code, or in a voluntary out-of-home care agreement
9 under the Children’s Code, and requiring an annual report to the governor and
10 the legislature on children who enter out-of-home care after they have been
11 adopted or placed under a guardianship.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in
the bill.

ASSEMBLY BILL 42

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Adoption Disruption and Dissolution.

Under current law, information regarding a child who enters the child welfare system is recorded into the Wisconsin Statewide Automated Child Welfare Information System (eWiSACWIS). The system maintains information on all aspects of a child welfare case, including intake, assessment, case management, and court proceedings. Generally, information on whether a child is adopted is not recorded. However, federal law requires a report to the U.S. Department of Health and Human Services, Administration for Children and Families, on children who entered state custody after being adopted from another country, and, under the newly-enacted Preventing Sex Trafficking and Strengthening Families Act of 2014, will require reporting on all children who entered state custody after being adopted.

This bill requires certain petitions and agreements related to the welfare of a child to state whether the child has previously been adopted. This information is required in all cases in which the adoption status is known or can be ascertained, and is required whether the adoption occurred in the United States or another country. The status information then becomes a part of the child's case record, to track when a child who has previously been adopted is subject to proceedings under the child welfare system or juvenile justice system, or when an adoption is dissolved by a termination of parental rights. Recording of a child's adoption status is not required for a child or juvenile who is held in custody for less than 48 hours (excluding weekends and legal holidays) and who is released to the parent, guardian, or legal custodian without a hearing.

This bill also requires the Department of Children and Families (DCF) to submit an annual report to the governor and the legislature, beginning on December 31, 2017, regarding the number of children who have previously been adopted or placed under guardianship who enter out-of-home care in the child welfare or juvenile justice system during the preceding calendar year. For each child enumerated in the report, the report may include information on the circumstances of the child's adoption or guardianship, and any other aspects associated with the child in order to better understand why children enter the child welfare or juvenile justice system after finalization of an adoption or guardianship.

1 **SECTION 1.** 48.245 (3) of the statutes is amended to read:

2 48.245 (3) The obligations imposed under an informal disposition and its
3 effective date shall be set forth in writing. The written agreement shall state
4 whether the child has been adopted. The child and a parent, guardian, and legal
5 custodian; the child expectant mother, her parent, guardian, and legal custodian,
6 and the unborn child's guardian ad litem; or the adult expectant mother and the

ASSEMBLY BILL 42

1 unborn child's guardian ad litem, shall receive a copy, as shall any agency providing
2 services under the agreement.

NOTE: This SECTION requires a written agreement for an informal disposition to state whether the child has been adopted. Obligations under an informal disposition may be imposed in lieu of the filing of a petition for a child who is alleged to be in need of protection or services.

3 **SECTION 2.** 48.255 (1) (a) of the statutes is amended to read:

4 48.255 (1) (a) The name, birth date, and address of the child and whether the
5 child has been adopted.

NOTE: This SECTION requires a petition for a child alleged to be in need of protection or services to state whether the child has been adopted.

6 **SECTION 3.** 48.42 (1) (a) of the statutes is amended to read:

7 48.42 (1) (a) The name, birth date or anticipated birth date, and address of the
8 child and whether the child has been adopted.

NOTE: This SECTION requires a petition for termination of parental rights to state whether the child has been adopted.

9 **SECTION 4.** 48.47 (8) (b) and (c) of the statutes are created to read:

10 48.47 (8) (b) The number of adoptions under the special needs adoption
11 program granted in the preceding calendar year and the costs to the state for services
12 relating to those adoptions.

13 (c) The number of children during the preceding calendar year who entered
14 out-of-home care under the placement and care responsibility of a county
15 department or the department under ch. 48 or 938 after finalization of an adoption
16 or guardianship. For each child enumerated in the report, the report may include
17 information concerning the length of the adoption or guardianship, the age of the
18 child at the time of the adoption or guardianship, the age at which the child entered
19 out-of-home care, the type of agency involved in making the adoptive or
20 guardianship placement, and any other information determined necessary to better

ASSEMBLY BILL 42**SECTION 4**

1 understand factors associated with a child entering out-of-home care after
2 finalization of an adoption or guardianship.

NOTE: This SECTION incorporates an annual reporting provision currently required under s. 49.32 (1) (a), stats. This SECTION also requires DCF to submit an annual report to the governor and the legislature regarding the number of children who have previously been adopted or who enter out-of-home care in the child welfare or juvenile justice system during the preceding calendar year. For each child enumerated in the report, the report may include information on the circumstances of the child's adoption or guardianship, and any other aspects associated with the child in order to better understand why children enter the child welfare or juvenile justice system after finalization of an adoption or guardianship.

3 **SECTION 5.** 48.63 (1) (c) of the statutes is amended to read:

4 48.63 (1) (c) Voluntary agreements may be made only under par. (a) or (b) or
5 sub. (5) (b), shall be in writing, shall state whether the child has been adopted, and
6 shall specifically state that the agreement may be terminated at any time by the
7 parent, guardian, or Indian custodian or by the child if the child's consent to the
8 agreement is required. In the case of an Indian child who is placed under par. (a) or
9 (b) by the voluntary agreement of the Indian child's parent or Indian custodian, the
10 voluntary consent of the parent or Indian custodian to the placement shall be given
11 as provided in s. 48.028 (5) (a). The child's consent to an agreement under par. (a)
12 or (b) is required whenever the child is 12 years of age or older.

NOTE: This SECTION requires a written agreement for voluntary placement of a child in a foster home, group home, or a shelter care facility to state whether the child has been adopted.

13 **SECTION 6.** 48.977 (4) (b) 1. of the statutes is amended to read:

14 48.977 (4) (b) 1. The name, birth date, and address of the child and whether
15 the child has been adopted.

NOTE: This SECTION requires a petition for appointment of a guardian for a child or juvenile who has been found to be in need of protection or services to state whether the child or juvenile has been adopted.

16 **SECTION 7.** 48.979 (1m) (a) 1. of the statutes is amended to read:

ASSEMBLY BILL 42

1 48.979 (1m) (a) 1. The name, address, and date of birth of the child who is the
2 subject of the delegation of powers and whether the child has been adopted.

NOTE: This SECTION requires a petition for court approval of a delegation of parental powers to an agent who is not a relative of the child for longer than one year to state whether the child has been adopted.

3 **SECTION 8.** 48.981 (9) (title) of the statutes is amended to read:

4 48.981 (9) (title) ~~ANNUAL AND QUARTERLY~~ QUARTERLY REPORTS.

NOTE: This SECTION amends the title to s. 48.981 (9) to reflect the renumbering of s. 48.981 (9) (a) by the next SECTION of this bill.

5 **SECTION 9.** 48.981 (9) (a) of the statutes is renumbered 48.47 (8) (intro.) and
6 amended to read:

7 48.47 (8) ANNUAL REPORTS. (intro.) Annually, the department shall prepare and
8 transmit to the governor, and to the legislature under s. 13.172 (2), a report on the
9 all of the following:

10 (a) The status of child abuse and neglect programs and on the status of unborn
11 child abuse programs. The report shall include a full statistical analysis of the child
12 abuse and neglect reports, and the unborn child abuse reports, made through the last
13 calendar year, an evaluation of services offered under this section and their
14 effectiveness, and recommendations for additional legislative and other action to
15 fulfill the purpose of this section. The department shall provide statistical
16 breakdowns by county, if requested by a county.

17 **SECTION 10.** 48.981 (9) (b) of the statutes is renumbered 48.981 (9) and
18 amended to read:

19 48.981 (9) ~~Quarterly reports.~~ (a) Within 30 days after the end of each calendar
20 quarter, the department shall prepare and transmit to the governor, and to the
21 appropriate standing committees of the legislature under s. 13.172 (3), a summary
22 report of all reports received by the department under sub. (3) (c) 8. during the

ASSEMBLY BILL 42

1 previous calendar quarter of abuse, as defined in s. 48.02 (1) (b) to (f), of a child who
2 is placed in the home of a foster parent or relative other than a parent or in a group
3 home, shelter care facility, or residential care center for children and youth. For each
4 report included in the summary report, the department shall provide the number of
5 incidents of abuse reported; the dates of those incidents; the county in which those
6 incidents occurred; the age or age group of the child who is the subject of the report;
7 the type of placement in which the child was placed at the time of the incident;
8 whether it was determined under sub. (3) (c) 4. that abuse occurred; and, if so, the
9 nature of the relationship between the child and the person who abused the child,
10 but may not provide any of the information specified in sub. (7) (cr) 6. or any
11 information that would jeopardize an investigation, prosecution, or proceeding
12 described in sub. (7) (cr) 7. a. or b.

13 (b) In every 4th summary report prepared and transmitted under ~~subd. 1. par.~~
14 (a), the department shall provide for all reports of abuse, as defined in s. 48.02 (1) (b)
15 to (f), of a child who is placed as described in ~~subd. 1. par. (a)~~ received by the
16 department under sub. (3) (c) 8. during the previous year information indicating
17 whether the abuse resulted in any injury, disease, or pregnancy that is known to be
18 directly caused by the abuse, but may not provide any of the information specified
19 in sub. (7) (cr) 6. or any information that would jeopardize an investigation,
20 prosecution, or proceeding described in sub. (7) (cr) 7. a. or b. A county department
21 reporting under sub. (3) (c) 8. shall make an active effort to obtain that information
22 and report the information to the department under sub. (3) (c) 8.

23 (c) The appropriate standing committees of the legislature shall review all
24 summary reports transmitted under ~~subd. 1. par. (a)~~, conduct public hearings on
25 those summary reports no less often than annually, and submit recommendations to

ASSEMBLY BILL 42

1 the department regarding those summary reports. The department shall also make
2 those summary reports available to the public.

NOTE: The preceding two SECTIONS revises the structure of a provision that requires DCF to provide an annual report to the governor and the legislature in order to incorporate other annual reports that DCF is required to provide.

3 **SECTION 11.** 49.32 (1) (a) of the statutes is amended to read:

4 49.32 (1) (a) Except as provided in s. 49.345 (14) (b) and (c), the department
5 shall establish a uniform system of fees for services provided or purchased under this
6 subchapter and ch. 48 by the department, or a county department under s. 46.215,
7 46.22, or 46.23, except as provided in s. 49.22 (6) and except when, as determined by
8 the department, a fee is administratively unfeasible or would significantly prevent
9 accomplishing the purpose of the service. A county department under s. 46.215,
10 46.22, or 46.23 shall apply the fees that it collects under this program to cover the
11 cost of those services. ~~The department shall report to the joint committee on finance
12 no later than March 1 of each year on the number of children placed for adoption by
13 the department during the previous year and the costs to the state for services
14 relating to such adoptions.~~

NOTE: This SECTION deletes an annual reporting provision that is incorporated into SECTION 4 of this bill.

15 **SECTION 12.** 54.34 (1) (a) of the statutes is amended to read:

16 54.34 (1) (a) The name, date of birth, residence, and post-office address of the
17 proposed ward and, if the proposed ward is a minor, whether the minor has been
18 adopted.

NOTE: This SECTION requires a petition for appointment of a guardian of a minor under the general guardianship provisions to state whether the child has been adopted.

19 **SECTION 13.** 938.245 (3) of the statutes is amended to read:

20 938.245 (3) OBLIGATIONS IN WRITING. The obligations imposed under a deferred
21 prosecution agreement and its effective date shall be set forth in writing. The written

ASSEMBLY BILL 42

1 agreement shall state whether the juvenile has been adopted. The intake worker
2 shall provide a copy of the agreement and order to the juvenile, to the juvenile's
3 parent, guardian, and legal custodian, and to any agency providing services under
4 the agreement.

NOTE: This SECTION requires a written agreement for deferred prosecution of a juvenile to state whether the juvenile has been adopted. Obligations under a deferred prosecution agreement may be imposed in lieu of the filing of a petition for a juvenile who is alleged to be delinquent or in need of protection or services.

5 **SECTION 14.** 938.255 (1) (a) of the statutes is amended to read:

6 938.255 (1) (a) The name, birth date, and address of the juvenile and whether
7 the juvenile has been adopted.

NOTE: This SECTION requires a petition for a juvenile alleged to be delinquent or in need of protection or services to state whether the juvenile has been adopted.

8 **SECTION 15. Effective dates.** This act takes effect on the day after publication,
9 except as follows:

10 (1) ANNUAL REPORT. The treatment of sections 48.47 (8) (b) and (c) and 48.981
11 (9) (title), (a), and (b) of the statutes takes effect on December 31, 2017.

NOTE: This SECTION requires the annual reporting of children who enter out-of-home care, who have previously been adopted or placed under guardianship, to begin on December 31, 2017.

12 (END)