



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

<p>2017 Wisconsin Act 258 [2017 Assembly Bill 778]</p>	<p>Appellate Procedure in Termination of Parental Rights</p>
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2017 Wisconsin Act 258 makes changes to the appellate procedure in proceedings related to the termination of parental rights (TPR).

APPEAL FROM TPR ORDER OR JUDGMENT

Background

Under state law, an appeal of a judgment or order granting TPR or denying TPR is initiated by filing a notice of intent to pursue post-disposition or appellate relief (“notice of intent”). The notice of intent generally must be filed within 30 days after the judgment or order is entered.

The Act

The Act requires a notice of intent to include the signature of the appellant on whose behalf the notice of intent is filed. In addition, in an appeal relating to a TPR proceeding, the Act requires an appellant to sign: (1) the notice of appeal for an appeal to the court of appeals; and (2) the petition for review for an appeal to the Wisconsin Supreme Court. The signature requirements do not apply if the appellant is the state. The appellant’s counsel, if any, must also sign the notice or petition, but may not sign in lieu of the appellant.

The Act also allows a court to extend the time for filing a notice of intent.

POST-JUDGMENT FACT-FINDING

Background

Under state law, if the appellant intends to appeal a judgment or order relating to a TPR proceeding on any ground that may require post-judgment fact-finding, the appellant must file

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

a motion in the court of appeals raising the issue and requesting that the court of appeals retain jurisdiction over the appeal and remand to the circuit court to hear and decide the issue. The motion must be filed within 15 days after the filing of the record on appeal.

The Act

The Act requires the appellant or appellant's counsel to file an affidavit in support of the motion stating with specificity the reasons that post-judgment fact-finding is necessary. The person signing the affidavit must affirm that, to the best of his or her knowledge, information, and belief, remand is warranted and is not being sought to cause unnecessary delay.

In addition, for an appellant who is not represented by counsel, the Act increases the time period for filing a motion for post-judgment fact-finding from 15 to 45 days after the filing of the record on appeal.

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