

2021 Senate Bill 116 (LRB -1641)

An Act to renumber and amend 767.461; and to create 767.34 (3), 767.41 (5m), 767.451 (3r) and 767.461 (1) to (4) of the statutes; relating to: modifications to legal custody or physical placement contingent upon a future event.

2021

02-18.	S.	Introduced by Senators Ballweg, Darling, Jacque, Stroebel, Wanggaard and Johnson ; cosponsored by Representatives J. Rodriguez, Brooks, Armstrong, Billings, Brandtjen, Dittrich, Doyle, Duchow, James, Kitchens, Magnafici, Moses, Murphy, Mursau, Oldenburg, Rozar, Spiros, Steffen, Tusler and Skowronski .	137
02-18.	S.	Read first time and referred to Committee on Human Services, Children and Families	137
02-19.	S.	Representative Edming added as a cosponsor	139
03-02.	S.	Public hearing held	
03-03.	S.	LRB correction	162
03-04.	S.	Executive action taken	
03-04.	S.	Report passage recommended by Committee on Human Services, Children and Families, Ayes 5, Noes 0	164
03-04.	S.	Available for scheduling	
03-12.	S.	Placed on calendar 3-16-2021 pursuant to Senate Rule 18(1)	181
03-16.	S.	Read a second time	192
03-16.	S.	Ordered to a third reading	192
03-16.	S.	Rules suspended	192
03-16.	S.	Read a third time and passed	192
03-16.	S.	Ordered immediately messaged	192
03-17.	A.	Received from Senate	150
03-17.	A.	Read first time and referred to committee on Rules	151
03-17.	A.	Placed on calendar 3-23-2021 by Committee on Rules	
03-23.	A.	Rules suspended to withdraw from calendar and take up	
03-23.	A.	Read a second time	
03-23.	A.	Ordered to a third reading	
03-23.	A.	Rules suspended	
03-23.	A.	Read a third time and concurred in	
03-23.	A.	Ordered immediately messaged	
03-24.	S.	Received from Assembly concurred in	

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ENROLLED BILL

Adopted Documents

Original Engrossed Substitute Amdt 21 7641, 2

Amendments: None or Listed below.

Corrections: None or Listed by date below. 3/3/21

Topic: Same as relating clause or Indicated below.

3/24/21

Case

Date

Enrolling Drafter



State of Wisconsin
2021-2022 LEGISLATURE

CORRECTIONS IN:

2021 SENATE BILL 116

Prepared by the Legislative Reference Bureau
(March 3, 2021)

1. Page 3, line 19: delete "party." and substitute "party.".

(END)



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1641/2
EAW:amn&wlj

2021 SENATE BILL 116

February 18, 2021 - Introduced by Senators BALLWEG, DARLING, JACQUE, STROEBEL, WANGGAARD and JOHNSON, cosponsored by Representatives J. RODRIGUEZ, BROOKS, ARMSTRONG, BILLINGS, BRANDTJEN, DITTRICH, DOYLE, DUCHOW, JAMES, KITCHENS, MAGNAFICI, MOSES, MURPHY, MURSAU, OLDENBURG, ROZAR, SPIROS, STEFFEN, TUSLER and SKOWRONSKI. Referred to Committee on Human Services, Children and Families.

1 **AN ACT** *to renumber and amend* 767.461; and *to create* 767.34 (3), 767.41
2 (5m), 767.451 (3r) and 767.461 (1) to (4) of the statutes; **relating to:**
3 modifications to legal custody or physical placement contingent upon a future
4 event.

Analysis by the Legislative Reference Bureau

Under current law, a court cannot modify an order for legal custody or physical placement of a child that would substantially alter the child's time with each parent within two years of the final judgment, unless custodial conditions are physically or emotionally harmful to the best interests of the child.

This bill authorizes a court to approve a stipulated agreement between the parties in an action affecting the family for modifications to legal custody or physical placement of a child upon the occurrence of life events of the adult parties or child, or developmental and educational needs of the child, that are reasonably certain to occur within two years of the date of the stipulation. The bill authorizes the court to approve such a stipulation if it is filed in an action initially determining, modifying, or revising a legal custody and physical placement order. The bill prohibits stipulated agreements between the parties that are based on anticipated

SENATE BILL 116

behavior modifications by a party, such as completion of an anger management course, drug or alcohol therapy, or a term of imprisonment, parole, or probation.

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

1 **SECTION 1.** 767.34 (3) of the statutes is created to read:

2 767.34 (3) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
3 EVENT. (a) In this subsection, “future event” means a life event of a party or of the
4 child or a change in the developmental or educational needs of the child.

5 (b) A court may approve a stipulation for legal custody and physical placement
6 that includes modifications to legal custody or physical placement upon the
7 occurrence of a specified future event that is reasonably certain to occur within 2
8 years of the date of the stipulation. A court may not approve a stipulation under this
9 subsection that is based on an anticipated behavior modification of a party.

10 **SECTION 2.** 767.41 (5m) of the statutes is created to read:

11 767.41 (5m) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
12 EVENT. In making an order of legal custody under sub. (2) or (3) or physical placement
13 under sub. (4), the court may approve a stipulation for modifications to legal custody
14 or physical placement upon the occurrence of a specified future event, as defined in
15 s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the date of the
16 stipulation and incorporate the terms of the stipulation into the order. The court may
17 not approve a stipulation under this subsection that is based on an anticipated
18 behavior modification of a party.

19 **SECTION 3.** 767.451 (3r) of the statutes is created to read:

20 767.451 (3r) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
21 EVENT. Notwithstanding sub. (1), in an action to modify a legal custody or physical

SENATE BILL 116

1 placement order, the court may approve a stipulation for further modifications to
 2 legal custody or physical placement upon the occurrence of a specified future event,
 3 as defined in s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the
 4 date of the stipulation and incorporate the terms of the stipulation into any revised
 5 legal custody or physical placement order granted by the court. The court may not
 6 approve a stipulation under this subsection that is based on an anticipated behavior
 7 modification of a party.

8 **SECTION 4.** 767.461 of the statutes is renumbered 767.461 (intro.) and amended
 9 to read:

10 **767.461 Revisions agreed to by stipulation.** (intro.) If after an initial order
 11 is entered under s. 767.41 the parties agree to a modification in an order of physical
 12 placement or legal custody and file a stipulation with the court that specifies the
 13 agreed upon modification, including a modification to physical placement or legal
 14 custody upon the occurrence of a specified future event, as defined in s. 767.34 (3) (a),
 15 that is reasonably certain to occur within 2 years of the date of the stipulation, the
 16 court shall incorporate the terms of the stipulation into a revised order of physical
 17 placement or legal custody unless the court finds that the modification is not in the
 18 best interest of the child. The court may not incorporate the terms of a stipulation
 19 that is based on an anticipated behavior modification of a party, ²including for the
 20 completion of any of the following: _{cc}

21 **SECTION 5.** 767.461 (1) to (4) of the statutes are created to read:

22 767.461 (1) An anger management course or therapy.

23 (2) A batterers intervention program.

24 (3) A drug or alcohol treatment or therapy.

SENATE BILL 116**SECTION 5**

1 **(4)** A term of incarceration, extended supervision, parole or probation for a
2 violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19,
3 940.195, 940.20, 940.201 (2), 940.203 (2), 940.225 (1), (2), or (3), 940.23, 940.235,
4 940.24 (1), 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e), or (2m), 940.42,
5 940.43, 940.44, 940.45, 941.20, 941.29, 941.30, 941.39, 943.011 (2), 947.012, 947.013,
6 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.055, 948.06, 948.07,
7 948.08, 948.085, 948.095, 948.30, 948.55, or 951.02 or any felony to which the penalty
8 enhancer under s. 939.621 could be imposed, for a violation of a 72-hour no contact
9 order under s. 968.075 (5), for a violation of a domestic abuse restraining order, child
10 abuse restraining order, or harassment restraining order, or for a violation to which
11 a penalty enhancer for the use of a dangerous weapon is applied.

SECTION 6. Initial applicability.

12 **(1)** The treatment of ss. 767.34 (3), 767.41 (5m), and 767.451 (3r) first applies
13 to actions or proceedings, including actions or proceedings to modify a judgment or
14 order previously granted, that are commenced on the effective date of this
15 subsection.
16

17 **(2)** The renumbering and amendment of s. 767.461 and the creation of s.
18 767.461 (1) to (4) first apply to stipulations filed with the court on the effective date
19 of this subsection.
20

(END)