



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Senate Bill 504

Senate Amendments 2 and 4

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2013 Senate Bill 504 relates to waiver of a parent's right to counsel in a contested adoption or an involuntary termination of parental rights proceeding for failure to personally appear as ordered by the juvenile court.

2013 Senate Bill 504

Senate Bill 504 specifies that in a proceeding for a contested adoption or involuntary termination of parental rights, when a parent of any age has been ordered to appear in person for all hearings, and the parent fails to appear, the parent is presumed to have waived the right to counsel if the failure to appear was egregious and without clear and justifiable excuse. Under the bill, consecutive failures to appear are presumed to be egregious and without clear and justifiable excuse. A minor parent may not otherwise waive counsel.

The bill provides that in a proceeding to vacate or reconsider a default judgment for an involuntary termination of parental rights, the right to counsel is reinstated for a parent who has waived counsel.

Senate Amendment 2

Senate Amendment 2 revises the presumption of a waiver of the right to counsel, when a parent fails to appear as ordered in the proceedings, to apply only to an adult parent. Consequently, under the amendment, a minor parent may not waive counsel by a failure to appear as ordered in the proceedings.

The amendment also specifies that in a proceeding to vacate or reconsider a default judgment for an involuntary termination of parental rights the parent may again be presumed to waive the reinstated right to counsel by a failure to appear. The amendment further specifies that in any situation when a parent has waived the right to counsel the court may discharge counsel.

Senate Amendment 4

Senate Amendment 4 specifies that at least two days must have passed from a court's finding that a parent has waived the right to counsel by a failure to appear before a court may hold a dispositional hearing on a contested adoption or involuntary termination of parental rights.

Bill History

On February 14, 2014, the Senate Committee on Judiciary and Labor recommended adoption of Senate Amendment 2 on a vote of Ayes, 4; Noes, 0; and recommended passage of the bill, as amended, on a vote of Ayes, 3; Noes, 1.

On February 18, 2014, the Senate adopted Senate Amendments 2 and 4, and passed the bill, as amended, on voice votes.

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