



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2017 Assembly Bill 778

Assembly Amendment 2

Memo published: February 1, 2018

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2017 ASSEMBLY BILL 778

Assembly Bill 778 makes changes to the appellate procedure in proceedings related to the termination of parental rights (TPR).

Appeal From TPR Order or Judgment

Under current 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 bill requires a notice of intent to include the signature of the appellant on whose behalf the notice of intent is filed, unless the appellant is the state. The appellant’s counsel, if any, must also sign the notice, but may not sign in lieu of the appellant. In addition, the bill allows a court to extend the time for filing a notice of intent.

Post-Judgment Fact-Finding

Under current 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 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 bill requires the appellant or appellant’s counsel to file an affidavit in support of the motion stating with specificity the facts the appellant reasonably anticipates will be established at a fact-finding hearing upon remand. In addition, for an appellant who is not represented by

counsel, the bill 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.

ASSEMBLY AMENDMENT 2

Assembly Amendment 2 creates additional signature requirements in appeals relating to TPR proceedings; and changes the contents required in an affidavit in support of a motion for post-judgment fact-finding.

Appeal From TPR Order or Judgment

The amendment 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 supreme court. The signature requirements do not apply if the appellant is the state. In addition, the appellant's counsel, if any, must sign the notice or petition, but may not sign in lieu of the appellant.

Post-Judgment Fact-Finding

Under the amendment, the affidavit for post-judgment fact-finding must state 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.

BILL HISTORY

On January 11, 2018, Assembly Amendment 2 was offered by Representative Doyle. On January 31, 2018, the Assembly Committee on Judiciary recommended adoption of the amendment and passage of Assembly Bill 778, as amended, on votes of Ayes, 9; Noes, 0.

JKR:ksm