

1 **AN ACT** *to amend* 971.10 (2) (a); and *to create* 48.325 and 48.421 of the statutes;
 2 **relating to:** speedy trial for a criminal case when the defendant is a nonpetitioning
 3 parent in an action for a child in need of protection or services or for termination of
 4 parental rights.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Special Committee on Permanency for Young Children in the Child Welfare System.

Background

Under current law, a defendant who is charged with a felony, or the state, may demand a speedy trial in the criminal action against the defendant. Upon this demand, the trial must then be held within 90 days of the demand unless a continuance is granted upon the court’s own motion or motion of a party. A continuance may not be granted on the basis of general congestion of the court’s calendar, but may be granted if the ends of justice are served. Only a defendant or the state, as parties to the felony criminal action, may demand a speedy trial in the matter.

Bill Draft

This draft requires a petitioner to demand, and authorizes a criminal court to accept the demand, for a speedy trial in a felony criminal case if the defendant is at the same time a nonpetitioning parent in an action for a child in need of protection or services (CHIPS) or for termination of parental rights (TPR).

5 **SECTION 1.** 48.325 of the statutes is created to read:

6 **48.325 Demand for a speedy criminal trial.** At any time after the filing of a petition
 7 for a proceeding relating to s. 48.13 or 48.133 and before the termination of an order under
 8 s. 48.355, if the nonpetitioning parent is also named as a defendant to a felony charge, the
 9 petitioner shall demand a trial under s. 971.10 (2) (a) immediately upon the filing of the

1 information or indictment, or upon the filing of a petition for a proceeding relating to s. 48.13
2 or 48.133, whichever is sooner.

NOTE: This SECTION requires a petitioner in a CHIPS action for a child or unborn child to demand a speedy trial in a criminal matter if the nonpetitioning parent is also a defendant to a felony charge.

3 **SECTION 2.** 48.421 of the statutes is created to read:

4 **48.421 Demand for speedy criminal trial.** At any time after the filing of a petition
5 under s. 48.42 and before entry of disposition under s. 48.427, if the nonpetitioning parent is
6 also named as a defendant to a felony charge, the petitioner shall demand a trial under s. 971.10
7 (2) (a) immediately upon the filing of the information or indictment, or upon the filing of a
8 petition under s. 48.42, whichever is sooner.

NOTE: This SECTION requires a petitioner in a TPR action to demand a speedy trial in a criminal matter if the nonpetitioning parent is also a defendant to a felony charge.

9 **SECTION 3.** 971.10 (2) (a) of the statutes is amended to read:

10 971.10 (2) (a) The trial of a defendant charged with a felony shall commence within 90
11 days from the date trial is demanded by any party in writing or on the record. If the demand
12 is made in writing, a copy shall be served upon the opposing party. The demand may not be
13 made until after the filing of the information or indictment. A petitioner in a proceeding under
14 s. 48.13, 48.133, or 48.42 may make a demand in writing under this section if the defendant
15 is a nonpetitioning parent in that proceeding.

NOTE: This SECTION specifies in the Criminal Code that the petitioner in a CHIPS proceeding, for a child or unborn child, or petitioner in a TPR action, may demand a speedy trial in a felony criminal matter, in writing, if the defendant in that matter is also a nonpetitioning parent in the CHIPS or TPR action. The SECTION does not authorize standing or rights to participation in the criminal action for the petitioner in a CHIPS or TPR proceeding.

COMMENT: Should the petitioner in a CHIPS or TPR action be required to demand a speedy trial, as in this draft, or should the petitioner, alternatively, be authorized, rather than required, to demand a speedy trial? Or, should the CHIPS or TPR petitioner be required (or authorized) only to notify the court in the criminal case of the pending CHIPS or TPR action, without authority to demand a speedy trial?

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(END)