



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 6

TO: MEMBERS OF THE SPECIAL COMMITTEE ON PERMANENCY FOR YOUNG CHILDREN IN THE CHILD WELFARE SYSTEM

FROM: Margit Kelley, Staff Attorney

RE: Revising the Time When a Petition for Termination of Parental Rights Must be Filed

DATE: November 8, 2012

The Special Committee on Permanency for Young Children in the Child Welfare System has received a suggestion to recommend 2011 Senate Bill 63 for introduction to the Legislature by the Joint Legislative Council. A copy of the bill is attached for the committee's review and consideration.

Senate Bill 63, introduced on April 18, 2011, by Senators Lazich and Galloway, requires that a termination of parental rights (TPR) petition be filed for a child under eight years old, and for certain children eight years old or over, who have been placed outside the home for six months.

BACKGROUND

Under current law, if a child in need of protection or services has been placed outside the home for 15 of the most recent 22 months, the agency must file a petition to terminate parental rights. [s. 48.417 (1) (a), Stats.] A shorter timeline is required if a child was abandoned while under one year old, or if a court finds that a parent has committed or attempted murder of another child of the parent or committed an assault that resulted in great or substantial bodily harm to the child or another child of the parent. [s. 48.417 (1) (b) to (d), Stats.]

A TPR petition is not required to be filed within either of the above times in any of the following circumstances:

- The child is being cared for by a fit and willing relative.

- TPR is not in the best interests of the child, as described and documented in the child's permanency plan.
- The services necessary for the safe return of the child to the home have not yet been provided within the time period prescribed in the permanency plan.
- The services necessary to prevent the breakup of an Indian child's family have not yet been provided within the time period prescribed in the permanency plan.
- Grounds for involuntary TPR do not exist.

[s. 48.417 (2), Stats.]

2011 SENATE BILL 63

2011 Senate Bill 63 requires that if a child in need of protection or services has been placed outside the home for a cumulative total period of six months, a TPR petition must be filed under any of the following circumstances:

- The child was seven years old, or younger, when placed outside the home.
- The child was eight years old, or older, and has a sibling seven years old, or younger, when placed outside the home, and the permanency goal for each child is placement for adoption.
- The child was eight years old, or older, when placed outside the home, and a safe and appropriate placement is available with a proposed adoptive parent, and the child has expressed the wish to be adopted.

As under current law, a TPR petition is not required to be filed in any of these circumstances if:

- The child is being cared for by a fit and willing relative.
- TPR is not in the best interests of the child, as described and documented in the child's permanency plan.
- The services necessary for the safe return of the child to the home have not yet been provided within the time period prescribed in the permanency plan.
- The services necessary to prevent the breakup of an Indian child's family have not yet been provided within the time period prescribed in the permanency plan.
- Grounds for involuntary TPR do not exist.

MSK:ksm

Attachment