

MS:ksm;

11/06/2012

1 **AN ACT** *to amend* 48.415 (10) (a); and *to create* 48.13 (14) of the statutes; **relating**
2 **to:** children in need of protection or services jurisdiction over and grounds for
3 involuntary termination of parental rights to a child under 3 years of age, whose
4 parent had an involuntary termination of parental rights within the last 3 years, and
5 was found to be in need of continued custody.

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 Legislation Council's Special Committee on Permanency for Young Children in the Child Welfare System.

Background on Current Law

Under current law, a court assigned to exercise jurisdiction under the Children's Code (juvenile court) has jurisdiction over a child who is alleged to be in need of protection or services. A juvenile court may issue an order to remove the child in need of protection or services (CHIPS) from the home and may order that services be provided if the child meets one of the following conditions:

- The child is without a parent or guardian.
- The child has been abandoned.
- A parent has relinquished custody of the child to a law enforcement officer, emergency medical technician, or hospital staff member without expressing intent to return for the child.
- The child has been the victim of abuse, including physical injury that was not accidentally inflicted; criminal sexual intercourse or sexual contact; sexual exploitation; permitting, allowing, or encouraging a child to engage in prostitution; causing a child to view or listen to sexual activity; causing a child to expose genitals or pubic area; or manufacture of methamphetamine in the child's home or in the child's presence. An injury may have been self-inflicted or inflicted by another.

- The child is at substantial risk of becoming the victim of abuse, based on reliable and credible information that another child in the home has been the victim of such abuse.
- A parent or guardian signs the petition requesting jurisdiction and is unable or needs assistance to care for or provide necessary special treatment or care for the child.
- The guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child, but is unwilling or unable to sign the petition requesting jurisdiction.
- The child has been placed for care or adoption in violation of law.
- The child is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized, or institutionalized.
- The child is at least age 12, has requested jurisdiction, and is in need of special treatment or care which the parent, guardian, or legal custodian is unwilling, neglecting, unable, or needs assistance to provide.
- A parent, guardian, or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical, or dental care or shelter so as to seriously endanger the physical health of the child.
- A parent, guardian, or legal custodian is at substantial risk of neglecting, refusing, or being unable for reasons other than poverty to provide necessary care, food, clothing, medical, or dental care or shelter so as to endanger seriously the physical health of the child, based on reliable and credible information that the child's parent, guardian, or legal custodian has neglected, refused or been unable for reasons other than poverty to provide necessary care, food, clothing, medical, or dental care or shelter so as to endanger seriously the physical health of another child in the home.
- The child is suffering emotional damage for which the parent, guardian, or legal custodian has neglected, refused, or been unable and is neglecting, refusing or unable, for reasons other than poverty, to obtain necessary treatment or to take necessary steps to ameliorate the symptoms.
- The child is suffering from an alcohol and other drug abuse impairment, exhibited to a severe degree, for which the parent, guardian, or legal custodian is neglecting, refusing, or unable to provide treatment.
- The child has not been immunized as required by law, and the child is not exempt from the immunization requirement.

Also under current law, a petition for the involuntary termination of parental rights may be filed against a person, if within 3 years prior to the date of birth of the child a juvenile court had also ordered the termination of parental rights with respect to another child of the person.

Bill Draft

The draft creates a new ground to file a CHIPS petition. The draft allows the juvenile court to have jurisdiction over a child who is under 3 years of age, whose parent had his or her parental rights involuntarily terminated with respect to another child within 3 years prior to the child's date of birth, and a judge or circuit court commissioner at the temporary physical custody hearing has found that the child should be continued in custody. The draft also allows a termination of parental rights (TPR) petition to be filed if a child was found to be in need of protection or services based upon the new CHIPS ground created under this draft.

1 **SECTION 1.** 48.13 (14) of the statutes is created to read:

2 48.13 **(14)** Who is less than 3 years of age whose parent, within 3 years prior to the date
3 of the birth of the child, had his or her parental rights to another child involuntarily terminated
4 by a court, and a judge or circuit court commissioner has found that the child should be
5 continued in custody under s. 48.21 (4).

NOTE: This SECTION creates a new ground in which the juvenile court has jurisdiction over a child in need of protection or services. The ground gives jurisdiction over a child who is under 3 years of age; whose parent has had his or her parental rights to another child involuntarily terminated within the last 3 years; and at the temporary physical custody hearing, a judge or circuit court commissioner has found the child to be in need of continued custody. In order for a court to have jurisdiction over a child under this new CHIPS ground, the juvenile court must first hold a temporary physical custody hearing regarding the child and find that the child should be continued in custody.

6 **SECTION 2.** 48.415 (10) (a) of the statutes is amended to read:

7 48.415 **(10)** (a) That the child who is the subject of the petition has been adjudged to
8 be in need of protection or services under s. 48.13 (2), (3) ~~or~~ (10), or (14); or that the child

1 who is the subject of the petition was born after the filing of a petition under this subsection
2 whose subject is a sibling of the child.

NOTE: This SECTION allows a TPR petition to be filed if the parent's child was found to be in need of protection or services based on the new CHIPS ground created under SECTION 1.

3 **SECTION 3. Initial applicability.**

4 (1) This act first applies to a petition filed under section 48.13 of the statutes on the
5 effective date of this subsection.

NOTE: This SECTION specifies that the new ground created under SECTION 1 of this draft applies to a new CHIPS petition if the CHIPS petition is filed under s. 48.13, stats., on or after the effective date of this draft.

6 (END)