

MSK:ksm;

10/19/2012

1 **AN ACT** *to amend* 48.415 (2) (a) 3. of the statutes; **relating to:** involuntary
2 termination of parental rights when child is in continuing need of protection or
3 services.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill 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, in order to terminate a person's parental rights, a court or a jury must find that one or more statutory grounds exist. One of the grounds under which an involuntary termination of parental rights (TPR) may be filed is if a child is in continuing need of protection or services. This ground may be established by proving all of the following elements:

- The child has been adjudicated in need of protection or services (CHIPS) and continues to be placed outside the home under the CHIPS order.
- The responsible social services agency has made reasonable efforts to provide the services ordered by the court.
- The child has been placed outside the home for a cumulative total period of 6 months or longer pursuant to the CHIPS order.
- The parent has failed to meet the conditions established for the safe return of the child to the home.
- There is a substantial likelihood that the parent will not meet the conditions established for the safe return of the child to the home within the next 9 months after the TPR fact-finding hearing.

Bill Draft

This draft amends the element that specifies the timeframe under which there is substantial likelihood that the parent will not meet the conditions established for the safe return to the home. It deletes the requirement of showing that the parent is substantially likely to continue to fail for the

next 9 months to meet the conditions and instead requires a finding that the parent has failed or is substantially likely to fail in meeting the conditions as of the date that the child has been placed outside the home for 15 of the prior 22 months. This timeframe mirrors the requirement under Wisconsin law and the federal Adoption and Safe Families Act of 1997 requiring a TPR petition to be filed when a child has been in foster care for 15 of the most recent 22 months.

1 **SECTION 1.** 48.415 (2) (a) 3. of the statutes is amended to read:

2 48.415 (2) (a) 3. That the child has been outside the home for a cumulative total period
3 of 6 months or longer pursuant to such orders not including time spent outside the home as
4 an unborn child; ~~and~~ that the parent has failed to meet the conditions established for the safe
5 return of the child to the home; and that there is a substantial likelihood that the parent will
6 not meet these conditions ~~within the 9-month period following the fact-finding hearing under~~
7 ~~s. 48.424~~ as of the date the child has been placed outside of his or her home pursuant to such
8 orders for 15 of the most recent 22 months, not including any period during which the child
9 was a runaway from the out-of-home placement or was residing in a trial reunification home.

NOTE: This SECTION revises the continuing CHIPS ground for involuntary TPR to eliminate the requirement that a parent is substantially likely to not meet the conditions for the safe return of the child within the next 9 months following the fact-finding hearing, and instead requires a finding that the parent is substantially likely to not meet those conditions as of the child's 15th month of the most recent 22 months of removal from the home.

COMMENT: This draft removes the specification in draft WLC: 0012/1 that the conditions will not be met as of the child's 15th month of the most recent 22 months of removal from the home "prior to the filing of the petition". The draft adds language to specify that the 15 of 22 months' time period does not include time while the child was a runaway or in a trial reunification.

Among other options, the committee could consider whether the draft should instead remove the 9-month look-ahead time period entirely, or remove it and require a parent to show that "reasonable progress" is being made towards the return of the child.

10 **SECTION 2. Initial applicability.**

(1) The treatment of section 48.415 (2) (a) 3. of the statutes first applies to court orders required to contain the notice under section 48.356 (2) or 983.356 (2) of the statutes granted on the effective date of this subsection.

NOTE: This SECTION specifies that this revised ground for TPR first applies after a parent has been informed in the written order, for a child's or juvenile's placement outside the home, of any grounds for TPR that may be applicable.

(END)