WELFR: CHIPS Jurisdiction Over a Child Born With Alcohol or WLC: 0030/1

Controlled Substances

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AN ACT *to create* 48.13 (14) of the statutes; **relating to:** children in need of protection or services jurisdiction over a child who is born with the presence of alcohol, a controlled substance, or a controlled substance analog in the child's blood, breath, or urine.

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.

This draft creates a new ground in which a court assigned to exercise jurisdiction under the Children's Code (juvenile court) has jurisdiction over a child who is in need of protection or services. The draft allows the juvenile court to have jurisdiction over a child who was born with alcohol, a controlled substance, or controlled substance analog in his or her blood, breath, or urine.

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

48.13 (14) Who was born [addicted or dependent upon] [with a significant presence of] [with any amount, including a trace amount of] alcohol, a controlled substance, or a controlled substance analog in the child's blood, breath, or urine [as determined by a medical professional].

NOTE: This SECTION creates a new ground in which a juvenile court has jurisdiction over a child in need of protection or services. This ground gives jurisdiction over a child who was born with alcohol, a controlled substance, or a controlled substance analog in his or her blood, breath, or urine.

COMMENT: Is it the committee's intent to require that a child be addicted or dependent upon alcohol or drugs before he or she is subject to a child in need of protection or services (CHIPS) action? What is the committee's intent regarding the level of alcohol or drugs that give rise to a CHIPS action? Is the intent that the child have a significant

presence or any amount, including a trace amount, of these substances in his or her blood, breath, or urine? Also, regarding alcohol, in some states a child may be subject to a CHIPS petition for being born with fetal alcohol syndrome. Does the committee want fetal alcohol syndrome included in the ground? Lastly, is it the intent of the committee that any of the determinations regarding addiction, dependency, level of alcohol or drugs, or fetal alcohol syndrome be made by a medical professional?

Is it the committee's intent to specify a time limit with which these circumstances may be used as a ground? For example, specifying that a CHIPS petition on this ground must be filed within a year of the child's birth?

Is it the committee's intent that this also be a ground for involuntarily terminating parental rights? For example, in some states, it is a ground for filing a termination of parental rights (TPR) petition if a child is born addicted or dependent upon alcohol or drugs. In other states, it is a TPR ground if a parent gives birth to 3 or more drug—affected infants.

SECTION 2. Initial applicability.

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

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4 (END)