

1 **AN ACT** *to amend* 48.63 (3) (b) 2., 48.83 (1), 48.833 (1) and (2), 48.837 (1r) (b) and
 2 48.88 (2) (a) (intro.); and *to create* 48.75 (3), 48.88 (2) (aj) and 48.88 (2) (d) of the
 3 statutes; **relating to:** jurisdiction and venue in adoption proceedings, and
 4 investigation of suitability of a home for adoption of a child.

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 Study Committee on Adoption Disruption and Dissolution.

Jurisdiction and Venue

Under current law, a petition for adoption or adoptive placement of a child must be filed in the county where the proposed adoptive parent or child resides.

This draft extends jurisdiction and venue to allow a proceeding for an adoption or adoptive placement to be heard in the county in which a petition for termination of parental rights to the child was filed or granted, in addition to the county in which the child or proposed adoptive parent resides.

Home Study

Under current law, in order to adopt a child in Wisconsin, a county, licensed adoption agency, or the Bureau of Milwaukee Child Welfare (BMCW), must investigate whether a prospective adoptive family’s home is suitable for the child. This is commonly referred to as a “home study”. Certain aspects of the home study are governed by administrative rule.

This draft requires all counties, licensed adoption agencies, and BMCW to use a standardized qualitative assessment system for the home study that is approved by the Department of Children and Families. The draft requires the standardized assessment to be used in licensing a home for foster care, and, if supplemented to evaluate suitability of the home for the child who is the subject of the adoption, need not be repeated for purposes of the adoption. The requirement for a standardized home study applies to all public and private adoptions in Wisconsin, whether

the child is a U.S. or foreign citizen, but does not apply to adoption by a stepparent for which other screening standards are required under current law. In any case in which there is special cause for concern as to the welfare of the child or the suitability of the placement, an assessment may include a clinical assessment of the proposed adoptive parents that is conducted by someone outside the organization that is administering the home study.

1 **SECTION 1.** 48.63 (3) (b) 2. of the statutes is amended to read:

2 48.63 (3) (b) 2. The department, a county department under s. 48.57 (1) (e) or (hm), or
3 a child welfare agency licensed under s. 48.60 may place a child under subd. 1. in the home
4 of a proposed adoptive parent or parents who reside in this state if that home is licensed as a
5 foster home under s. 48.62, and the investigation made under s. 48.75 (3) has been
6 supplemented to evaluate whether the home is suitable for the child who is the subject of the
7 proposed adoption.

NOTE: This SECTION requires a standardized home study done for the purpose of licensing a foster home to be supplemented to evaluate suitability of the home for a specific child before placing the child in the proposed adoptive home at the request of the parent having custody.

8 **SECTION 2.** 48.75 (3) of the statutes is created to read:

9 48.75 (3) Before issuing a license under sub. (1d) or (1g), a child welfare agency or
10 public licensing agency shall require each foster parent to receive a favorable report in an
11 investigation that is conducted as provided in s. 48.88 (2) (aj) as to whether the home is suitable
12 for the purposes of placing a child in the home for foster care.

NOTE: This SECTION requires a home that is being licensed to provide foster care to be investigated using the same standardized home study that is required under this draft for purposes of adopting a child.

13 **SECTION 3.** 48.83 (1) of the statutes is amended to read:

14 48.83 (1) Except as provided in s. 48.028 (3) (b), the court of the county where the
15 proposed adoptive parent or child resides or the court of the county where a petition for

1 termination of parental rights to the child was filed or granted under subch. VIII of this chapter,
2 upon the filing with that court of a petition for adoption or for the adoptive placement of a
3 child, has jurisdiction over the child until the petition is withdrawn, denied, or granted. Venue
4 in a proceeding for adoption or adoptive placement of a child shall be in the county where the
5 proposed adoptive parent or child resides at the time the petition is filed or in the county where
6 a petition for termination of parental rights to the child was filed or granted under subch. VIII
7 of this chapter. The court may transfer the case to a court in the county in which the proposed
8 adoptive parents reside.

NOTE: This SECTION allows jurisdiction and venue in a proceeding for an adoption or adoptive placement of a child to be in the county in which a petition for termination of parental rights to the child was filed or granted, in addition to the jurisdiction and venue allowed under current law for the county in which the child or proposed adoptive parent resides.

9 **SECTION 4.** 48.833 (1) and (2) of the statutes are amended to read:

10 48.833 (1) PLACEMENT BY DEPARTMENT OR COUNTY DEPARTMENT. The department or a
11 county department under s. 48.57 (1) (e) or (hm) may place a child for adoption in a licensed
12 foster home without a court order under s. 48.63 (3) (b) or if the department or county
13 department is the guardian of the child or makes the placement at the request of another agency
14 that is the guardian of the child, if the investigation made under s. 48.75 (3) has been
15 supplemented to evaluate whether the home is suitable for the child who is the subject of the
16 proposed adoption, and if the proposed adoptive parents have completed the preadoption
17 preparation required under s. 48.84 (1) or the department or county department determines
18 that the proposed adoptive parents are not required to complete that preparation. When a child
19 is placed under this subsection in a licensed foster home for adoption, the department or county
20 department making the placement shall enter into a written agreement with the proposed

1 adoptive parent, which shall state the date on which the child is placed in the licensed foster
2 home for adoption by the proposed adoptive parent.

3 (2) PLACEMENT BY CHILD WELFARE AGENCY. A child welfare agency licensed under s.
4 48.60 may place a child for adoption in a licensed foster home without a court order under s.
5 48.63 (3) (b) or if the child welfare agency is the guardian of the child or makes the placement
6 at the request of another agency that is the guardian of the child, if the investigation made under
7 s. 48.75 (3) has been supplemented to evaluate whether the home is suitable for the child who
8 is the subject of the proposed adoption, and if the proposed adoptive parents have completed
9 the preadoption preparation required under s. 48.84 (1) or the child welfare agency determines
10 that the proposed adoptive parents are not required to complete that preparation. When a child
11 is placed under this subsection in a licensed foster home for adoption, the child welfare agency
12 making the placement shall enter into a written agreement with the proposed adoptive parent,
13 which shall state the date on which the child is placed in the licensed foster home for adoption
14 by the proposed adoptive parent.

NOTE: This SECTION requires a standardized home study done for the purpose of licensing a foster home to be supplemented to evaluate suitability of the home for a specific child before a child welfare agency or licensed adoption agency may place the child in the home for adoption.

15 SECTION 5. 48.837 (1r) (b) of the statutes is amended to read:

16 48.837 (1r) (b) The department, a county department under s. 48.57 (1) (e) or (hm), or
17 a child welfare agency licensed under s. 48.60 may place a child under par. (a) in the home
18 of a proposed adoptive parent or parents who reside in this state if that home is licensed as a
19 foster home under s. 48.62, and the investigation made under s. 48.75 (3) has been
20 supplemented to evaluate whether the home is suitable for the child who is the subject of the
21 proposed adoption.

NOTE: This SECTION requires a standardized home study done for the purpose of licensing a foster home to be supplemented to evaluate suitability of the home for a specific child before placing the child in the home under the independent adoption procedures.

1 **SECTION 6.** 48.88 (2) (a) (intro.) of the statutes is amended to read:

2 48.88 (2) (a) (intro.) Except as provided under pars. (ag) ~~and~~, (c), and (d), when a
3 petition to adopt a child is filed, the court shall order an investigation to determine whether
4 the child is a proper subject for adoption and whether the petitioner's home is suitable for the
5 child. The court shall order one of the following to conduct the investigation:

NOTE: This SECTION adjusts a cross-reference to the exceptions from the general requirement for a court to order an investigation as to whether an adoption petitioner has a suitable home for the child, in order to include the exception created under this draft when a standardized home study was conducted to place the child in the home for foster care.

6 **SECTION 7.** 48.88 (2) (aj) of the statutes is created to read:

7 48.88 (2) (aj) 1. In determining whether the petitioner's home is suitable for the child,
8 the agency making the investigation shall consider whether the petitioner is fit and qualified
9 to care for the child, exercises sound judgment, does not abuse alcohol or drugs, and displays
10 the capacity to successfully nurture the child.

11 2. The investigation shall be conducted using an assessment system that is approved
12 by the department. The assessment system shall provide a reliable, comprehensive, and
13 standardized qualitative evaluation of a petitioner's personal characteristics, civil and
14 criminal history, age, health, financial stability, and ability to responsibly meet all
15 requirements of the department.

16 3. If the agency making the investigation has special concern as to the welfare of the
17 child or the suitability of the placement, the investigation may include a clinical assessment
18 of the petitioner's mental health or alcohol or other drug use by a person who is not an

1 employee of the agency. A person who provides such an assessment shall be a licensed
2 psychologist, licensed psychiatrist, certified advanced practice social worker, certified
3 independent social worker, licensed clinical social worker, or licensed professional counselor.

NOTE: This SECTION requires that a standardized system be used in assessing a home for an adoption in all cases other than an adoption by a stepparent. This SECTION also specifies that the home study may include a clinical assessment of the proposed adoptive parents if there is special concern as to the welfare of the child or the suitability of the placement.

4 **SECTION 8.** 48.88 (2) (d) of the statutes is created to read:

5 48.88 (2) (d) An investigation is not required under this subsection if all of the following
6 apply:

7 1. The petitioner is licensed to operate a foster home and the license is in effect at the
8 time the adoption petition is filed.

9 2. The petitioner has never had a license to operate a foster home revoked or suspended.

10 3. An investigation as to the suitability of the petitioner's home was conducted as
11 provided in par. (aj) for the purposes of licensing the petitioner's home for foster care and the
12 investigation has been supplemented to evaluate whether the petitioner's home is suitable for
13 the child who is the subject of the adoption.

NOTE: This SECTION creates an exception to the general requirement for a court to order an investigation as to whether an adoption petitioner has a suitable home for the child, if a standardized home study required under this draft was conducted for the purpose of licensing the home for foster care and the home study has been supplemented to evaluate suitability of the home for the specific child who is the subject of the adoption.

14 **SECTION 9. Initial applicability.**

15 (1) HOME STUDIES FOR FOSTER CARE PLACEMENT. The treatment of section 48.75 (3) of
16 the statutes first applies when a person makes an initial application for a foster home license
17 on the effective date of this subsection.

1 (2) HOME STUDIES FOR ADOPTION. The treatment of section 48.88 (2) (aj) 2. of the statutes
2 first applies to a child who is placed for adoption under s. 48.63 (3) (b), 48.833, 48.835, 48.837,
3 or 48.839 of the statutes on the effective date of this subsection.

NOTE: This SECTION specifies that the standardized home study that is
 required under this draft is required for an adoptive placement that is
 made on or after the effective date of the draft and for an initial foster
 care license that is applied for on or after the effective date of the draft.

4 **SECTION 10. Effective date.**

5 (1) The treatment of sections 48.75 (3) and 48.88 (2) (a), (aj), and (d) of the statutes take
6 effect on the first day of the 6th month beginning after publication.

NOTE: This SECTION delays the effective date of the provisions in this
 draft for a standardized home study until six months after the draft is
 enacted.

7

(END)