



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 4

TO: MEMBERS OF THE STUDY COMMITTEE ON ADOPTION DISRUPTION AND DISSOLUTION

FROM: Margit Kelley, Staff Attorney

RE: Summaries of the Bill Drafts That are Before the Committee on December 16, 2014

DATE: December 12, 2014

This Memo provides a brief description of the bill drafts that are before the committee for the final meeting on December 16, 2014. The Memo also provides a brief summary of the revisions included in Version 2 of each draft. The drafts are described in turn, below.

WLC: 0014/2, ADOPTION JURISDICTION; HOME STUDY

Version 1 of this draft requires home studies in an adoption to be conducted using the Structured Analysis Family Evaluation (SAFE) system developed by the California-based Consortium for Children, or a comparable qualitative system that is approved by the Department of Children and Families (DCF). The draft requires a home study to include a clinical assessment of the proposed parents in all cases.

Version 2 of this draft removes the reference to the SAFE system for a home study, and instead requires the use of a standardized assessment system that is approved by DCF, and which considers whether the proposed parents are fit and qualified to care for the child, exercise sound judgment, do not abuse alcohol or drugs, and display the capacity to successfully nurture the child. A standardized system approved by DCF must provide a reliable, comprehensive, and qualitative evaluation of the proposed parents' personal characteristics, civil and criminal history, age, health, financial stability, and ability to responsibly meet all requirements of DCF.

Version 2 also requires a standardized assessment system 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.

Also, Version 2 allows, but does not require, a home study for an adoption to include a clinical assessment of the proposed parents, if the agency conducting the home study has special concern as to the welfare of the child or the suitability of the placement.

Lastly, Version 2 adds an allowance for an adoption petition to be filed in the county in which a petition for termination of parental rights to the child was filed or granted, in addition to the allowance under current law for an adoption petition to be filed in the county in which the child or proposed parents reside.

WLC: 0022/2, REINSTATEMENT FOR BIOLOGICAL FAMILY

Version 1 of this draft requires an agency that is providing services to a child who has been adopted to include birth relatives in the search for placement and adoption options, if a release from the birth parent is on file.

Version 1 also creates a procedure for reinstatement of a birth parent's rights, if reinstatement is in the best interests of the child, a specified number of years have passed since the birth parent's rights were terminated, and the birth parent has shown by clear and convincing evidence that the parent has had a substantial change in circumstances that reasonably resolves the grounds for the court's former jurisdiction over the child.

Version 2 maintains the requirement to search for birth relatives, if a release from the birth parent is on file.

Version 2 revises certain aspects of the procedure that is created in the draft for reinstatement of a birth parent's rights, as follows:

- Concurrent with the prior termination of the birth parent's rights, a court must have had jurisdiction over the child through the child welfare or juvenile justice system.
- If the child was adopted after the birth parent's rights were terminated, a petition for reinstatement of the birth parent's rights may be filed only if the child is not allowed to reside in the adoptive home, or the child is a subject at the time of filing under the child welfare or juvenile justice system.
- At least five years must have passed since the birth parent's rights were terminated.
- In considering whether to grant a reinstatement of parental rights, a court must consider whether the birth parent is fit, willing, and able to parent the child, in addition to the considerations under Version 1 for the best interests of the child and whether the birth parent has had a substantial change in circumstances that reasonably resolves the grounds for the court's former jurisdiction over the child.

Version 2 should be corrected on page 10, lines 13 and 14, to replace the phrase "any of the following apply:" with the phrase, "an order terminating parental rights of the adoptive parent or parents has been entered under s. 48.43," in considering whether to grant a reinstatement of parental rights. Correspondingly, lines 15 and 16 should be deleted.

WLC: 0023/2, OPEN ADOPTION

Version 1 of this draft creates a procedure to recognize a written agreement for various degrees of postadoption contact between the adoptive parents and a birth parent, if the adoptive parents choose to enter into such an agreement. To approve such an agreement, the court must receive favorable recommendations for the agreement from the agency that has supervision of the child, from the child's guardian ad litem, and, if the child is an Indian child, from the Indian child's tribe. Procedures are given for adoptive parents to request a modification or termination of the agreement, and for a birth parent to request enforcement of the agreement.

Version 2 revises certain aspects of the procedure that is created in the draft for court approval of a postadoption contact agreement, as follows:

- Rather than requiring the adoptive child to consent to enter into a postadoption contact agreement, a court must consider the child's wishes, which may be communicated by the child, or through the child's guardian ad litem or other appropriate professional, in determining whether to approve the agreement.
- Rather than limiting a postadoption contact agreement to a "birth parent," an adoptive parent whose rights are being terminated may, as a parent of the child, enter into a postadoption contact agreement with a subsequent adoptive family.
- Rather than limiting a postadoption contact agreement to a "parent," adoptive parents may also enter into a postadoption contact agreement with a relative with whom the child has a substantial relationship.

WLC: 0029/1, ADOPTION PREPARATION TRAINING

Version 1 of this draft revises the preadoption training requirements given in current law and administrative rules, as follows:

- Requires 25 hours of preadoption training, rather than 18 hours.
- Requires at least six of those hours to be delivered in person.
- Requires at least six hours to be provided after the child is in the adoptive home.
- Requires six hours to be offered to the adoptive family after the adoption is finalized.
- Requires topics of the training to include, when appropriate to the history of the child, the issues of attachment, trauma, abuse, neglect, and sexual abuse.
- Requires an in-person meeting with a representative of a postadoption resource center (PARC).

Additionally, Version 1 requires agencies to report the names and contact information of each adoptive parent to the PARC that serves the area in which the parent resides in a given

number of days after an adoption is granted, unless the adoptive parents decline to have that contact information released to the PARC.

Version 2 removes the option for the adoptive parents to opt out of the referral of their contact information to the PARC, and specifies that the given time period for reporting a finalized adoption to a PARC is 90 days. Additionally, Version 2 allows preadoptive training from another state to be accepted for an adoption that is finalized in Wisconsin if the training was equivalent to Wisconsin's requirements.

WLC: 0030/2, READOPTION AFTER ADOPTION ABROAD

Version 1 of this draft requires, rather than allows, parents to readopt a child after an international adoption in the child's home country. The draft uses the existing procedure for adoption in Wisconsin after a parent was given guardianship in the child's home country.

The procedure requires certification by DCF before the adoptive parents may bring the child into Wisconsin that all preadoption requirements of Wisconsin have been met, including that the child has been freed for adoption by the foreign court, that DCF has received a copy of a home study recommending the adoptive parents, that the parents are receiving services from a licensed adoption agency, that a bond has been filed, and that the adoptive parents have received the required preadoption training. After bringing the child into Wisconsin, the parents are then required to file the petition to readopt the child within 60 days after that arrival.

Version 2 requires a court in approving a readoption to consider only whether all requirements have been met and whether the order of the foreign court was valid, rather than allowing a court to consider the best interests of the child, as the standard for approving readoption of a child legally adopted in the child's home country.

WLC: 0031/2, TRACKING WHEN AN ADOPTED CHILD ENTERS THE CHILD WELFARE SYSTEM

Version 1 of this draft requires various petitions and agreements related to when a child is receiving services in the child welfare or juvenile justice system to specify whether the child is an adopted child, when that fact is known or ascertainable.

Version 2 of this draft adds a petition for general guardianship, petition for guardianship under the Children's Code, and petition for court approval of a parental power of attorney to the various petitions and written agreements listed in Version 1.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MSK:ty