

State of Wisconsin



2015 Assembly Bill 39

Date of enactment: April 25, 2016
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2015 WISCONSIN ACT 378

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

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

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

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

48.75 (3) Before issuing a license under sub. (1d) or (1g), a child welfare agency or public licensing agency shall require that each foster parent receive a favorable report following an investigation that is conducted in the same manner as an investigation under s. 48.88 (2) (aj) is conducted.

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

48.83 (1) Except as provided in s. 48.028 (3) (b), the court of the county where the proposed adoptive parent or child resides or the court of the county where a petition for termination of parental rights to the child was filed or granted under subch. VIII, upon the filing with that court

of a petition for adoption or for the adoptive placement of a child, has jurisdiction over the child until the petition is withdrawn, denied, or granted. Venue in a proceeding for adoption or adoptive placement of a child shall be in the county where the proposed adoptive parent or child resides at the time the petition is filed or in the county where a petition for termination of parental rights to the child was filed or granted under subch. VIII. The court may transfer the case to a court in the county in which the proposed adoptive parents reside.

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

48.833 (1) PLACEMENT BY DEPARTMENT OR COUNTY DEPARTMENT. The department or a county department under s. 48.57 (1) (e) or (hm) may place a child for adoption in a licensed foster home without a court order ~~under s. 48.63 (3) (b)~~ or if the department or county department is the guardian of the child or makes the placement at the request of another agency that is the guardian of the child, if the investigation made under s. 48.75 (3) has been supplemented to evaluate whether the home is suitable for the child, and if the proposed adoptive parents have completed the preadoption preparation required under s. 48.84 (1) or the department or county department determines that the proposed adoptive parents are not required to complete that preparation. The department or a county department under s. 48.57 (1) (e) or (hm) may also place

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

a child for adoption in a licensed foster home without a court order under s. 48.63 (3) (b). When a child is placed under this subsection in a licensed foster home for adoption, the department or county department making the placement shall enter into a written agreement with the proposed adoptive parent, which shall state the date on which the child is placed in the licensed foster home for adoption by the proposed adoptive parent.

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

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

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

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

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

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

48.88 (2) (aj) 1. In determining whether the petitioner's home is suitable for the child, the agency or tribal child welfare department making the investigation shall consider whether the petitioner is fit and qualified to care for the child, exercises sound judgment, does not abuse

alcohol or drugs, and displays the capacity to successfully nurture the child.

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

3. If the agency or tribal child welfare department making the investigation has special concern as to the welfare of the child or the suitability of the placement, the investigation may include a clinical assessment of the petitioner's mental health or alcohol or other drug use by an employee of the agency or tribal child welfare department who is not employed in the unit of the agency or tribal child welfare department that is making the investigation or by a person who is not employed by that agency or tribal child welfare department. A person who provides such an assessment shall be a licensed psychologist, licensed psychiatrist, certified advanced practice social worker, certified independent social worker, licensed clinical social worker, or licensed professional counselor.

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

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

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

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

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

SECTION 9. Initial applicability.

(1) **HOME STUDIES FOR FOSTER CARE PLACEMENT.** The treatment of section 48.75 (3) of the statutes first applies to an initial application for a foster home license submitted on the effective date of this subsection.

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

SECTION 10. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 48.63 (3) (b) 2., 48.75 (3), 48.833 (1) and (2), 48.837 (1r) (b), and 48.88 (2) (a) (intro.), (aj), and (d) of the statutes and SECTION 9 (1) and

(2) of this act take effect on the first day of the 6th month beginning after publication.
