

PROPOSED AMENDMENT TO AB-405/SB-326

48.195 (1m) of the statutes is created to read:

48.195 (1m) INDIAN CHILD. (a) Notwithstanding sub. (1), no parent may relinquish custody of an Indian child who is under 11 days old. A law enforcement officer, emergency medical technician, or hospital or health care clinic staff member who takes a child into custody under sub. (1) shall make a reasonable effort to ascertain whether the child is an Indian child and to obtain any relevant information relating to the tribal affiliation of the child by asking the parent the following series of sequential questions:

1. Does this child have any Native American heritage?

If the answer to 1. is No, then no further questions. If the answer to 1. is Yes, then ask:

2. What tribe?

If the parent answers 2., then ask:

3. What is the name of the parent or parents who are tribal members?

(b) The parent relinquishing the child is not required to answer any of the questions under sub. a. If the parent or child is admitted to the hospital or receives health care services from the health care clinic, a hospital or health care clinic staff member may, in addition to asking the questions under sub. (a), use hospital or health care clinic record information to ascertain whether the child is an Indian child and any relevant information relating to the tribal affiliation. All information regarding the identity of both parents gathered under this section shall remain confidential and be sealed by the court.

(c) During the admissions process to a hospital for purposes of giving birth to a child, a hospital shall ascertain whether the child is an Indian child and shall obtain any relevant information relating to the tribal affiliation of the child. If a child is relinquished to a hospital staff member prior to the release of the parent from the hospital after giving birth, the hospital staff member is relieved of his or her responsibility for asking the questions under sub. (a), and shall instead use the information gathered during the admissions process to determine whether the child is an Indian child and any relevant information regarding tribal affiliation.

(d) If the intake worker to whom a child is delivered as provided in sub. (1) knows or has reason to know that the child is an Indian child, the intake worker shall notify the Indian child's tribe as provided in s. 48.028 (4) (a), and s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, shall apply to any Indian child custody proceeding involving the Indian child.

48.195 (2) (d) 1m. of the statutes is created to read:

48.195 (2) (d) 1m. A child welfare department or other appropriate agency of an Indian tribe for the purpose of determining whether the child is a member of or is eligible for

membership in that Indian tribe and for the purpose of providing notice to the Indian tribe under s. 48.028 (4) (a).

48.195 (2) (d) 2. of the statues is amended to read:

48.195 (2) (d) 2. Appropriate staff of the department, a county department, a licensed child welfare agency, or a tribal child welfare department that is authorized to provide or is providing services to the child.

48.195 (2) (d) 7. Of the statutes is amended to read:

48.195 (2) (d) 7. A tribal court, or other adjudicative body authorized by an Indian tribe to perform child welfare functions, that is authorized to exercise or is exercising jurisdiction over proceedings relating to the child, an attorney who is authorized to represent or is representing the interests of the Indian tribe in those proceedings, or an attorney who is representing the interests of the child in those proceedings.