



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0708/P1
EAW:ahe

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 767.41 (4) (a) 2.; and *to create* 767.001 (5m)
2 and 767.41 (4) (a) 2. a. to e. of the statutes; **relating to:** equalizing physical
3 placement.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 767.001 (5m) of the statutes is created to read:
5 767.001 (**5m**) “Shared physical placement” means a court-ordered placement
6 schedule under which both parents have periods of physical placement of at least 25
7 percent.

8 **SECTION 2.** 767.41 (4) (a) 2. of the statutes is renumbered 767.41 (4) (a) 2.
9 (intro.) and amended to read:

1 767.41 (4) (a) 2. (intro.) ~~In determining the allocation of periods of physical~~
2 ~~placement, the court shall consider each case on the basis of the factors in sub. (5)~~
3 ~~(am), subject to sub. (5) (bm). The Subject to sub. (5) (bm), the court shall set a shared~~
4 ~~physical placement schedule that allows the child to have regularly occurring,~~
5 ~~meaningful with substantially equal periods of physical placement with each parent~~
6 ~~and that maximizes the amount of time the child may spend with each parent, taking~~
7 ~~into account geographic separation and accommodations for different households.,~~
8 ~~modified as appropriate considering the factors under sub. (5) (am). The court may~~
9 ~~not grant physical placement of less than 25 percent to one parent unless the court~~
10 ~~finds it is in the best interest of the child and one of the following applies:~~

11 **SECTION 3.** 767.41 (4) (a) 2. a. to e. of the statutes are created to read:

12 767.41 (4) (a) 2. a. One party unreasonably refuses to cooperate with the other
13 party.

14 b. One party does not wish to have an active role in raising the child.

15 c. One party is not capable of providing physical care for the child.

16 d. One or more conditions exist that would interfere with shared physical
17 placement.

18 e. The parties will not be able to cooperate in the future shared physical
19 placement schedule. In making this finding the court shall consider, along with any
20 other pertinent items, any reasons offered by a party objecting to a shared placement
21 schedule. Evidence that either party engaged in abuse of the child, as defined in s.
22 813.122 (1) (a), or evidence of interspousal battery, as described under s. 940.19 or
23 940.20 (1m), or domestic abuse, as defined in s. 813.12 (1) (am), creates a rebuttable
24 presumption that the parties will not be able to cooperate in a future shared physical
25 placement schedule.

***NOTE: This subd. 2. e. was drafted to mirror s. 767.41 (2) (b) 2. c., relating to granting sole legal custody. Is this your intent?

1

(END)