

State of Wisconsin



2017 Assembly Bill 778

Date of enactment: April 4, 2018
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2017 WISCONSIN ACT 258

AN ACT to amend 808.04 (7m), 809.107 (5) (a), 809.107 (6) (am), 809.107 (6) (f) and 809.82 (2) (b); and to create 809.107 (2) (bm) 6. of the statutes; relating to: appellate procedure in proceedings related to termination of parental rights.

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

SECTION 1. 808.04 (7m) of the statutes is amended to read:

808.04 (7m) An appeal from a judgment or order terminating parental rights or denying termination of parental rights shall be initiated by filing the notice required by s. 809.107 (2) within 30 days after the date of entry of the judgment or order appealed from. ~~Notwithstanding s. 809.82 (2) (a), this time period may not be enlarged unless the judgment or order was entered as a result of a petition under s. 48.415 that was filed by a representative of the public under s. 48.09.~~

SECTION 2. 809.107 (2) (bm) 6. of the statutes is created to read:

809.107 (2) (bm) 6. For an appellant other than the state, the signature of the appellant on whose behalf the notice of intent is filed. Appellant's counsel, if any, shall also sign the notice, but may not sign in lieu of the appellant.

SECTION 2m. 809.107 (5) (a) of the statutes is amended to read:

809.107 (5) (a) *Filing; and service of notice of appeal.* Within 30 days after the later of the service of the transcript or the circuit court case record, unless extended under s. 809.82, the appellant shall file a notice of appeal

as provided in s. 809.10 and serve a copy of the notice on the persons required to be served under sub. (2) (bm). For an appellant other than the state, the appellant on whose behalf the notice of appeal is filed shall sign the notice. Appellant's counsel, if any, shall also sign the notice of appeal, but may not sign in lieu of the appellant.

SECTION 3. 809.107 (6) (am) of the statutes is amended to read:

809.107 (6) (am) *Motion for remand.* If the appellant intends to appeal on any ground that may require post-judgment fact-finding, the appellant shall file a motion in the court of appeals, within 15 days after the filing of the record on appeal, raising the issue and requesting that the court of appeals retain jurisdiction over the appeal and remand to the circuit court to hear and decide the issue. If the appellant is not represented by counsel, the appellant shall file any motion under this paragraph within 45 days after the filing of the record on appeal. The appellant's counsel or, if the appellant is not represented by counsel, the appellant, shall file an affidavit in support of the motion stating with specificity the reasons that postjudgment fact-finding is necessary. The person signing the affidavit shall in the affidavit affirm under s. 802.05 (2) that, to the best of his or her knowledge, information, and belief, remand is warranted and is not being sought to cause unnecessary delay. If the court of appeals

* 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."

grants the motion for remand, it shall set time limits for the circuit court to hear and decide the issue, for the appellant to request transcripts of the hearing, and for the court reporter to file and serve the transcript of the hearing. The court of appeals shall extend the time limit under par. (a) for the appellant to file a brief presenting all grounds for relief in the pending appeal.

SECTION 3m. 809.107 (6) (f) of the statutes is amended to read:

809.107 (6) (f) *Petition for review.* A petition for review of an appeal in the supreme court, if any, shall be filed within 30 days after the date of the decision of the court of appeals. For a petitioner other than the state, the petitioner on whose behalf the petition for review is filed

shall sign the petition. Petitioner's counsel, if any, shall also sign the petition for review, but may not sign in lieu of the petitioner. The supreme court shall give preference to a petition for review of an appeal filed under this paragraph.

SECTION 4. 809.82 (2) (b) of the statutes is amended to read:

809.82 (2) (b) Notwithstanding par. (a), the time for filing a notice of appeal or cross-appeal of a final judgment or order, other than in an appeal under s. 809.107 ~~of a judgment or order that was entered as a result of a petition under s. 48.415 that was filed by a representative of the public under s. 48.09~~ or an appeal under s. 809.30 or 809.32, may not be enlarged.