



State of Wisconsin
2023 - 2024 LEGISLATURE

LRBs0265/1
MDE:skw

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 375**

January 29, 2024 - Offered by Senator TOMCZYK.

1 **AN ACT** *to amend* 48.92 (2) and 49.145 (2) (f) 1. b.; and *to create* 48.417 (1) (e),
2 48.43 (2) (c) and 48.436 of the statutes; **relating to:** termination of parental
3 rights and child support in the case of a parent convicted of sexual assault that
4 results in the conception of a child.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Children and Families, a county department of human services or social services, a licensed child welfare agency, the district attorney, the corporation counsel, or other appropriate official designated by a county board to represent the interests of the public must file a termination of parental rights (TPR) petition under certain circumstances. Once parental rights have been terminated, with some exceptions, all powers, privileges, immunities, duties, and obligations between the parent and the child are permanently severed.

This bill creates a requirement to file a TPR petition if a parent has been found guilty of certain sexual assault law violations and a court has found that the child was conceived as a result of that sexual assault. The bill also creates a post-TPR obligation to provide child support payments if so ordered. Under the bill, the post-TPR child support obligation is not severed by adoption. Under the bill, the parent whose parental rights were terminated and who is ordered to make child support payments may not seek a modification of the child support order. A child

support obligation under the bill must be double the amount of support determined by the court.

Also, under current law, an individual who is the parent of a child under the age of 13 or, if the child is disabled, under the age of 19 who needs child care services to participate in various education or work activities, and who satisfies other eligibility criteria, may receive a child care subsidy for child care services under Wisconsin Shares. To receive the child care subsidy, the individual is required to assign to the state any right of the individual or of any dependent child to receive support or maintenance from any other person accruing during the time that the individual receives the child care subsidy. The individual is generally required to cooperate with DCF in efforts to obtain that support or maintenance, unless the individual can show good cause to refuse to cooperate.

Under the bill, an individual is considered to have good cause for refusing to cooperate with an effort to obtain post-TPR child support payments under the bill.

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

1 **SECTION 1.** 48.417 (1) (e) of the statutes is created to read:

2 48.417 (1) (e) A court of competent jurisdiction has found that the parent has
3 committed a violation of s. 940.225 (1), (2), or (3), 948.02 (1) or (2), 948.025, or 948.085
4 and that the child was conceived as a result of the violation of s. 940.225 (1), (2), or
5 (3), 948.02 (1) or (2), 948.025, or 948.085. If the circumstances specified in this
6 paragraph apply, the petition shall be filed or joined in within 60 days after the date
7 on which the court of competent jurisdiction found that the child was conceived as
8 a result of a sexual assault in violation of s. 940.225 (1), (2), or (3), 948.02 (1) or (2),
9 948.025, or 948.085.

10 **SECTION 2.** 48.43 (2) (c) of the statutes is created to read:

11 48.43 (2) (c) A parent whose parental rights to a child are terminated has a duty
12 to provide child support payments for that child if ordered to do so under s. 48.436.

13 **SECTION 3.** 48.436 of the statutes is created to read:

1 **48.436 Support for child resulting from sexual assault. (1)** A parent
2 whose parental rights to a child are terminated under s. 48.417 (1) (e) may be subject
3 to an order to provide child support payments for that child under ch. 767.

4 **(2)** A parent making child support payments under this section may not seek
5 a modification of the child support order under s. 767.59.

6 **(3)** A child support obligation under this section shall be an amount equal to
7 2 times the amount of support determined by the court under ch. 767.

8 **SECTION 4.** 48.92 (2) of the statutes is amended to read:

9 **48.92 (2)** After the order of adoption is entered the relationship of parent and
10 child between the adopted person and the adopted person's birth parents and the
11 relationship between the adopted person and all persons whose relationship to the
12 adopted person is derived through those birth parents shall be completely altered
13 and all the rights, duties, and other legal consequences of those relationships shall
14 cease to exist, unless the birth parent is the spouse of the adoptive parent, in which
15 case those relationships shall be completely altered and those rights, duties, and
16 other legal consequences shall cease to exist only with respect to the birth parent who
17 is not the spouse of the adoptive parent and all persons whose relationship to the
18 adopted person is derived through that birth parent. Notwithstanding the extinction
19 of all parental rights, duties, and other legal consequences under this subsection, a
20 court may order reasonable visitation under s. 48.925 and a birth parent may be
21 required to provide child support payments under s. 48.436.

22 **SECTION 5.** 49.145 (2) (f) 1. b. of the statutes is amended to read:

23 **49.145 (2) (f) 1. b.** Every parent in the individual's Wisconsin works group fully
24 cooperates in good faith with efforts directed at obtaining support payments or any
25 other payments or property to which that parent and any minor child of that parent

1 may have rights or for which that parent may be responsible, regardless of whether
2 the parent is the custodial or noncustodial parent of the minor child. Such
3 cooperation shall be in accordance with federal law and regulations and rules
4 promulgated by the department applicable to collection of support payments and
5 may not be required if the parent has good cause for refusing to cooperate, as
6 determined by the department in accordance with federal law and regulations. A
7 parent shall be considered to have good cause for refusing to cooperate if the support
8 payment obtained is a child support payment under s. 48.436.

9 (END)