

---

# Wisconsin Legislative Council

## AMENDMENT MEMO

---



**Memo published:** December 20, 2019

**Contact:** Anne Sappenfield, Director, or Rachel E. Snyder, Staff Attorney

### 2019 Assembly Bill 562

### Assembly Substitute Amendment 1 and Assembly Amendment 1 to Assembly Substitute Amendment 1

## 2019 ASSEMBLY BILL 562

2019 Assembly Bill 562 expands the rights of a foster parent or physical custodian in any hearing on a requested change in a child's placement. Specifically, if a hearing is held on a request to remove a child from a foster home or other placement with a physical custodian in which the child has been placed for six months or more, then the foster parent or physical custodian is a party to the proceeding. As a party, the foster parent or physical custodian has the right to be heard, as provided under current law, and also has the right to be represented by counsel, to request an examination or assessment of the child by a medical or mental health professional, to present evidence, to confront and cross-examine witnesses, and to make alternative placement recommendations.

The bill also provides that counsel for the foster parent or physical custodian may inspect and obtain copies of all records relating to the child. The bill also expands the scope of discovery by removing the existing requirement that the discoverable records be relevant to the subject matter of the proceeding.

Finally, the bill extends the same rights to the head of a foster home, group home, or home of a relative other than a parent who requests a hearing of an agency decision to remove a child from his or her home. The rights apply in both a fair hearing before the Department of Children and Families and in a hearing before the circuit court.

## ASSEMBLY SUBSTITUTE AMENDMENT 1

The substitute amendment generally retains the provisions of the bill, with the following changes:

- Provides that a foster parent or physical custodian may be represented by counsel, but does not have a right to appointed counsel.
- Provides that the amount of time that a child has spent with a foster parent or physical custodian is not, on its own, good cause for departing from the order of placement preference under the Wisconsin Indian Child Welfare Act.
- Requires counsel for the foster parent or other physical custodian to advise the foster parent or physical custodian that information contained in records relating to the child are confidential and may be disclosed only for the purpose of participating in a change-in-placement proceeding, if counsel discloses such a record to the foster parent or physical custodian.
- Applies the current penalty of \$5,000 for intentionally using or disclosing confidential records under chs. 48 and 938, Stats., to records received by a foster parent or other physical custodian.

For hearings related to an agency decision to remove a child from a foster home, group home, or home of a relative, the substitute amendment makes the following changes:

- Does not provide party status to the head of a group home.
- Applies the current penalty of \$5,000 for intentionally using or disclosing confidential records under ch. 48, Stats., to records received by a foster parent or other physical custodian.

Finally, the substitute amendment restores the current law provision under ch. 48, Stats., that limits discovery to records relevant to the subject matter of the proceeding.

## **ASSEMBLY AMENDMENT 1 TO ASSEMBLY SUBSTITUTE AMENDMENT 1**

The amendment restores the provision in ch. 938, Stats., that limits discovery to records relevant to the subject matter of the proceeding.

### **BILL HISTORY**

2019 Assembly Bill 562 was introduced by Representative Plumer on October 23, 2019. Representative Plumer offered Assembly Substitute Amendment 1 on December 6, 2019, and offered Assembly Amendment 1 to Assembly Substitute Amendment 1 on December 12, 2019. On December 17, 2019, the Assembly Committee on Family Law recommended adoption of the amendment on a vote of Ayes, 9; Noes, 0; adoption of the substitute amendment, as amended, on a vote of Ayes, 7; Noes, 2; and passage of the bill, as amended, on a vote of Ayes, 6; Noes, 3.

AS:RES:ty