
Wisconsin Legislative Council

AMENDMENT MEMO



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

2019 Assembly Bill 565

**Assembly Substitute
Amendment 1**

CURRENT LAW

In a case involving a child adjudged to be in need of protection or services (CHIPS), current law favors preserving the family unit and removing a child from the home and transferring custody of the child from the parent only when there is no less drastic alternative. In an intent statement, the Legislature has provided that if there is no less drastic alternative to removal from the home, then a judge must consider transferring custody to a relative of the child whenever possible.

Current law establishes procedures for changing the placement of a child or juvenile who is subject to a CHIPS or juvenile in need of protection or services (JIPS) order. When a judge decides to order a change in placement, the order must contain certain findings upon which the decision is made. The court must document or reference the specific information on which its findings are based in the change in placement order.

Current law also requires the court to order an agency to conduct a diligent search to locate and provide notice to all adult relatives of a child when a child is placed or is continued in placement outside his or her home under a CHIPS or JIPS disposition or change in placement order. The notice must include, among other items, a statement that explains the options to participate in the care and placement of the child.

2019 ASSEMBLY BILL 565

2019 Assembly Bill 565 modifies the law in three ways. First, the bill modifies the legislative intent statement by providing that if there is no less drastic alternative to transferring custody of a child from a parent, then a judge must consider transferring custody to a relative if it is in the child's best interest, instead of whenever possible.

Second, the bill modifies what a judge must find and document in a change in placement order under certain circumstances. Specifically, if a change in placement would remove a child or juvenile from a foster home or other out-of-home placement with a physical custodian, then the judge must make a finding that removing the child or juvenile from the foster home or placement is in the best interest of the child or juvenile. The bill states that there is no presumption that a change in placement from a foster home or other out-of-home placement to a placement with a relative other than a parent is in the best interest of the child or juvenile. A judge must document or reference the specific information upon which the finding is based in the change in placement order.

Third, under the bill, an adult relative who receives notice regarding an out-of-home placement in the course of a CHIPS or JIPS proceeding has no more than four months from the date that he or she received the notice to indicate his or her willingness to participate in the care and placement of the child.

ASSEMBLY SUBSTITUTE AMENDMENT 1

The substitute amendment contains the same provisions modifying the legislative intent statement, requiring documentation of a finding that a change in placement is in the child's or juvenile's best interest, and providing that there is no presumption that a change in placement from a foster home or other out-of-home placement to the home of a relative other than a relative is in the child's or juvenile's best interest.

The substitute amendment does not include the bill provisions under which a relative has four months from the date on which he or she received notice of an out-of-home placement to indicate his or her willingness to participate in the care and placement of the child or juvenile. Instead, under the substitute amendment, when the Department of Children and Families (DCF) places a child or juvenile for adoption or if a change in placement is proposed after a termination of parental rights petition is filed, DCF or the agency must give preference to placement of the child or juvenile with a foster parent or physical custodian if the child or juvenile has been placed with that foster parent or physical custodian for nine months or more. These provisions do not apply to an Indian child.

BILL HISTORY

Representative Ramthun introduced 2019 Assembly Bill 565 on October 23, 2019, and offered Assembly Substitute Amendment 1 on December 6, 2019. On December 17, 2019, the Assembly Committee on Family Law recommended adoption of the substitute amendment on a vote of Ayes 9; Noes, 0; and passage of the bill, as amended, on votes of Ayes, 7; Noes, 2.

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