



1997 ASSEMBLY BILL 859

March 2, 1998 – Introduced by Representatives R. YOUNG, BALDWIN, BOCK, BOYLE, CARPENTER, HANSON, MURAT, NOTESTEIN, R. POTTER, RILEY, TRAVIS and L. YOUNG, cosponsored by Senator RISSER. Referred to Committee on Children and Families.

1 **AN ACT to renumber** 880.09 (2); **to renumber and amend** 880.155 (1); **to**
2 **amend** 48.835 (title), 48.835 (1), 48.835 (2), 48.835 (3), 49.90 (2r), 565.30 (5m),
3 767.05 (5), 767.077 (intro.), 767.085 (1) (a), 767.085 (1) (b), 767.085 (2) (a),
4 767.10 (1), 767.115 (1) (a), 767.21 (1) (a), 767.24 (1), 767.25 (1) (intro.), 767.25
5 (1m) (c), 767.25 (4m) (b), 801.05 (11), 880.155 (title), 880.155 (2), 880.155 (3) and
6 880.155 (5); **to repeal and recreate** 48.81; and **to create** 48.82 (1) (c), 48.90
7 (1) (e), 48.90 (1) (f), 767.02 (1) (n), 880.09 (2) (b), 880.09 (2) (c), 880.15 (1g) and
8 880.155 (1) (a) of the statutes; **relating to:** the adoption of a child; custody, child
9 support and physical placement of an adoptive child when the unmarried
10 parents of the child cease residing together; and guardianship of and visitation
11 with a minor if one of the minor's parents dies or if the minor's last surviving
12 parent dies.

Analysis by the Legislative Reference Bureau

This bill makes various changes relating to the adoption of a child; custody, child support and physical placement of an adoptive child when the unmarried parents of the child cease residing together; and guardianship of and visitation with a child if one of the child's parents dies or if the child's last surviving parent dies. Specifically, the bill does all of the following:

Adoption

Under current law, a minor who is present in this state at the time that a petition for adoption is filed and whose parental rights have been terminated may

be adopted, except that a foreign child who has been freed for adoption or a child without a living parent who has had a guardian appointed for him or her need not have his or her parental rights terminated in order to be adopted. This bill permits any child who is present in this state at the time that a petition for adoption is filed to be adopted if any of the following criteria is met:

1. Both of the child's parents are deceased.
2. The parental rights of both of the child's parents with respect to the child have been terminated.
3. The parental rights of one of the child's parents with respect to the child have been terminated and the child's other parent is deceased.
4. The child was born as a result of artificial insemination under circumstances in which the child's mother is not the wife of the sperm donor, the child has no other parent and the child's mother is deceased or her parental rights have been terminated.
5. The parental rights of one of the child's parents with respect to the child have been terminated or one of the child's parents is deceased and the person filing the petition for adoption (petitioner) is the child's stepparent with whom the child and the child's remaining parent reside.
6. The parental rights of one of the child's parents with respect to the child have been terminated or one of the child's parents is deceased and all of the following apply:
 - a. The petitioner is an unmarried adult with whom the child and the child's remaining parent reside.
 - b. The petitioner has maintained and is maintaining a relationship with the child that is similar to a parent-child relationship.
 - c. The child's remaining parent has custody of the child.
 - d. The child's remaining parent consents to the adoption.
7. The child has 2 living parents, but only one of those parents has custody of the child, and all of the following apply:
 - a. The petitioner is an unmarried adult with whom the child and the parent who has custody of the child reside.
 - b. The petitioner has maintained and is maintaining a relationship with the child that is similar to a parent-child relationship.
 - c. The parent who has custody of the child consents to the adoption.
 - d. The parental rights of the parent who does not have custody of the child are terminated.
8. The child was born as a result of artificial insemination under circumstances in which the child's mother is not the wife of the sperm donor, the child has no other parent, the child's mother has custody of the child and any of the following applies:
 - a. The petitioner is the child's stepparent with whom the child and the child's parent reside.
 - b. The petitioner is an unmarried adult with whom the child and the child's parent reside, the petitioner has maintained and is maintaining a relationship with the child that is similar to a parent-child relationship and the child's parent consents to the adoption.

9. The child is a foreign child who has been freed for adoption.

10. The child has been adopted in another jurisdiction and is being readopted in this state.

Under current law, a husband and wife jointly, a stepparent or an unmarried adult may adopt a child. This bill permits 2 unmarried adults who reside together in the same home to adopt a child jointly.

Current adoption procedures distinguish between placement of a child with a nonrelative for adoption and placement of a child with a relative, including a stepparent, for adoption. To place a child with a nonrelative for adoption, a parent having custody of the child and the proposed adoptive parent or parents must petition the court assigned to exercise jurisdiction under the children's code (juvenile court) to permit the placement. To place a child with a relative for adoption, a parent having custody of the child does not need a juvenile court order permitting that placement. Before a nonrelative may file a petition to finalize an adoption, the child must have been placed in the nonrelative's home for 6 months or more. A relative, on the other hand, may petition for adoption at any time.

This bill applies the current procedure for adoption by a relative to adoptions by unmarried adults described in items 6. and 7. above.

Custody, Support and Physical Placement

Under current law, a court of civil and criminal jurisdiction exercising the jurisdiction of a family court (family court) has jurisdiction over certain types of actions known as actions affecting the family. Those actions include actions for annulment, divorce, legal separation, child custody, child support and periods of physical placement of a child. This bill grants to the family court jurisdiction over actions for custody, child support and periods of physical placement of a child who has been adopted by an unmarried adult under the circumstances described in items 6. or 7. above or by 2 unmarried adults jointly, whose parents no longer reside together with the child in the same home and one or both of whose parents do not intend, in the future, either to reside together with the child in the same home or to permit the other parent to reside with the child and that parent in the same home.

Guardianship and Visitation

Under current law, the juvenile court, in appointing a guardian or temporary guardian of the person or of the estate, or both, of a minor, must consider nominations made by the parent of the minor in the parent's will. This bill requires the juvenile court, if both parents of a minor are deceased and if the last surviving parent did not nominate a guardian by will, to appoint as guardian or temporary guardian of the person or of the estate, or both, of the minor a person who meets all of the following qualifications, unless the juvenile court finds that the appointment is not in the best interests of the minor:

1. The last surviving parent consented to and fostered the person's formation of a parent-like relationship with the minor.

2. The person resided with the minor and the last surviving parent prior to the death of that parent.

3. The person assumed obligations of parenthood by taking significant responsibility for the minor's care, education and development, including

contributing towards the minor's support, without expectation of financial compensation.

4. The person has been in a parental role for a length of time sufficient for the person to have established with the minor a bonded, dependent relationship that is parental in nature.

5. The person states that he or she agrees to serve as guardian or temporary guardian if appointed by the juvenile court.

The bill also requires the juvenile court, if one parent of a minor is deceased and if the deceased parent did not nominate a guardian by will, to appoint as guardian or temporary guardian of the person or of the estate, or both, of the minor a person who states that he or she agrees to serve as guardian or temporary guardian if appointed by the juvenile court and whose appointment is consented to by the surviving parent, unless the juvenile court finds that the appointment is not in the best interests of the minor.

Under current law, if one or both of the parents of a minor are deceased, a grandparent or stepparent may petition the juvenile court for visitation privileges with respect to the minor and the juvenile court may grant reasonable visitation privileges to the grandparent or stepparent if the surviving parent or other person who has custody of the minor has notice of the hearing on the petition and if the juvenile court determines that the visitation is in the best interests of the minor.

This bill permits a person who is not a parent of a minor, but who has resided with the minor and a parent of the minor prior to the parent's death and who has maintained a relationship similar to a parent-child relationship with the minor within 2 years prior to the date on which a petition for visitation privileges is filed to petition the juvenile court for visitation privileges with respect to the minor in the same manner as a grandparent or stepparent may petition for visitation privileges under current law. The bill also permits a juvenile court to grant reasonable visitation privileges to such a person on the same basis as the juvenile court may grant visitation privileges to a grandparent or stepparent under current law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.81 of the statutes is repealed and recreated to read:

2 **48.81 Who may be adopted.** Any child who is present in this state at the time
3 that the petition for adoption is filed may be adopted if any of the following criteria
4 is met:

5 **(1)** Both of the child's parents are deceased.

1 **(2)** The parental rights of both the child's parents with respect to the child have
2 been terminated under subch. VIII or in another state or a foreign jurisdiction.

3 **(3)** The parental rights of one of the child's parents with respect to the child
4 have been terminated under subch. VIII or in another state or a foreign jurisdiction
5 and the child's other parent is deceased.

6 **(4)** The child was born as a result of artificial insemination under the
7 circumstances described in s. 891.40 (2), the child has only one parent and that
8 parent is deceased or the parental rights of that parent with respect to that child have
9 been terminated under subch. VIII or in another state or foreign jurisdiction.

10 **(5)** The parental rights of one of the child's parents with respect to the child
11 have been terminated under subch. VIII or in another state or a foreign jurisdiction
12 or one of the child's parents is deceased and all of the following apply:

13 (a) The person filing the petition for adoption is the spouse of the child's
14 remaining parent.

15 (b) The child and the child's remaining parent reside in the same home with
16 the person filing the petition for adoption.

17 **(6)** The parental rights of one of the child's parents with respect to the child
18 have been terminated under subch. VIII or in another state or a foreign jurisdiction
19 or one of the child's parents is deceased and all of the following apply:

20 (a) The person filing the petition for adoption is an unmarried adult with whom
21 the child and the child's remaining parent reside in the same home.

22 (b) The person filing the petition for adoption has maintained and is
23 maintaining a relationship with the child that is similar to a parent-child
24 relationship.

1 (c) The child's remaining parent has custody, as defined in s. 48.835 (1), of the
2 child.

3 (d) The child's remaining parent consents to the adoption.

4 **(7)** The child has 2 living parents, but only one of those parents has custody,
5 as defined in s. 48.835 (1), of the child, and all of the following apply:

6 (a) The person filing the petition for adoption is an unmarried adult with whom
7 the child and the parent who has custody of the child reside in the same home.

8 (b) The person filing the petition for adoption has maintained and is
9 maintaining a relationship with the child that is similar to a parent-child
10 relationship.

11 (c) The parent who has custody of the child consents to the adoption.

12 (d) The parental rights of the parent who does not have custody of the child are
13 terminated under subch. VIII.

14 **(8)** The child was born as a result of artificial insemination under the
15 circumstances described in s. 891.40 (2), the child has only one living parent, that
16 parent has custody, as defined in s. 48.835 (1), of the child and any of the following
17 applies:

18 (a) The person filing the petition for adoption is the spouse of the child's parent
19 and the child and the child's parent reside in the same home with the person filling
20 the petition for adoption.

21 (b) The person filing the petition for adoption is an unmarried adult with whom
22 the child and the child's parent reside in the same home, the person filing the petition
23 for adoption has maintained and is maintaining a relationship with the child that
24 is similar to a parent-child relationship and the child's parent consents to the
25 adoption.

1 **(9)** Section 48.839 (3) (b) applies.

2 **(10)** The child is being readopted under s. 48.97.

3 **SECTION 2.** 48.82 (1) (c) of the statutes is created to read:

4 48.82 **(1) (c)** Two unmarried adults who reside together in the same home,
5 jointly.

6 **SECTION 3.** 48.835 (title) of the statutes is amended to read:

7 **48.835** (title) **Placement of children with relatives and certain**
8 **unmarried adults for adoption.**

9 **SECTION 4.** 48.835 (1) of the statutes is amended to read:

10 48.835 **(1) DEFINITION.** In this section and ~~s. ss.~~ ss. 48.837 and 48.90, “custody”
11 means physical custody of a child by the child’s parent not in violation of a custody
12 order issued by a court. “Custody” does not include physical custody of a child during
13 a period of physical placement with a parent who does not have legal custody of the
14 child.

15 **SECTION 5.** 48.835 (2) of the statutes is amended to read:

16 48.835 **(2) ADOPTIVE PLACEMENT.** A parent having custody of a child may place
17 the child for adoption in the home of a relative or in the home of the parent and an
18 unmarried adult as described in s. 48.90 (1) (e) or (f) without a court order.

19 **SECTION 6.** 48.835 (3) of the statutes is amended to read:

20 48.835 **(3) PETITION FOR TERMINATION OF PARENTAL RIGHTS REQUIRED; EXCEPTION.**
21 (a) If the child’s parent has not filed a petition for the termination of parental rights
22 under s. 48.42, the relative with whom the child is placed or an unmarried adult
23 described in s. 48.90 (1) (f) shall file a petition for the termination of the parents’
24 rights at the same time the petition for adoption is filed, except as provided under
25 par. (b).

1 (b) If the person filing the adoption petition is a stepparent with whom the child
2 and the child's parent reside or an unmarried adult described in s. 48.90 (1) (f), the
3 stepparent or unmarried adult shall file only a petition to terminate the parental
4 rights of the parent who does not have custody of the child.

5 **SECTION 7.** 48.90 (1) (e) of the statutes is created to read:

6 48.90 (1) (e) The petitioner is an unmarried adult, the child who is the subject
7 of the petition has only one living parent and all of the following apply:

8 1. The child and the child's parent reside in the same home with the petitioner.

9 2. The petitioner has maintained and is maintaining a relationship with the
10 child that is similar to a parent-child relationship.

11 3. The child's parent has custody of the child.

12 4. The petition is accompanied by a written consent to the adoption signed by
13 the child's parent.

14 **SECTION 8.** 48.90 (1) (f) of the statutes is created to read:

15 48.90 (1) (f) The petitioner is an unmarried adult, the child who is the subject
16 of the petition has 2 living parents, but only one of those parents has custody of the
17 child and all of the following apply:

18 1. The child and the parent who has custody of the child reside in the same home
19 with the petitioner.

20 2. The petitioner has maintained and is maintaining a relationship with the
21 child that is similar to a parent-child relationship.

22 3. The petition is accompanied by a written consent to the adoption signed by
23 the parent who has custody of the child.

24 4. The petition is accompanied by a petition for the termination of parental
25 rights of the parent who does not have custody of the child.

1 **SECTION 9.** 49.90 (2r) of the statutes is amended to read:

2 49.90 **(2r)** An action under sub. (2) or (2g) for maintenance of a grandchild by
3 a grandparent may be joined with an action to determine paternity under s. 767.45
4 (1) or an action for child support under s. 767.02 (1) (f) ~~or~~, (j) or (n) or 767.08, or both.

5 **SECTION 10.** 565.30 (5m) of the statutes, as affected by 1997 Wisconsin Act
6 (Assembly Bill 378), is amended to read:

7 565.30 **(5m)** WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE OR
8 FAMILY SUPPORT. The administrator shall report to the department of workforce
9 development the name, address and social security number of each winner of a
10 lottery prize that is payable in instalments. Upon receipt of the report, the
11 department of workforce development shall certify to the administrator whether any
12 payee named in the report is obligated to provide child support, spousal support,
13 maintenance or family support under s. 767.02 (1) (f) ~~or~~, (g), (j) or (n), 767.10, 767.23,
14 767.25, 767.26, 767.261, 767.465 (2m), 767.51 (3) or 948.22 (7) or ch. 769 and the
15 amount required to be withheld from the lottery prize under s. 767.265. The
16 administrator shall withhold the certified amount from each payment made to the
17 winner and remit the certified amount to the department of workforce development.

18 **SECTION 11.** 767.02 (1) (n) of the statutes is created to read:

19 767.02 **(1)** (n) For custody, child support or periods of physical placement of a
20 child who has been adopted by an unmarried adult under the circumstances specified
21 in s. 48.81 (6), (7) or (8) (b) or by 2 unmarried adults jointly, whose parents no longer
22 reside together with the child in the same home and one or both of whose parents do
23 not intend, in the future, either to reside together with the child in the same home
24 or to permit the other parent to reside with the child and that parent in the same
25 home.

1 **SECTION 12.** 767.05 (5) of the statutes is amended to read:

2 767.05 (5) TITLE OF ACTIONS. An action affecting the family under s. 767.02 (1)
3 (a) to (d) or (g) to (k) shall be entitled "In re the marriage of A.B. and C.D.", except
4 that an independent action for visitation under s.767.245 (3) shall be entitled "In re
5 visitation with A. B.". An action affecting the family under s. 767.02 (1) (f) or (m) shall
6 be entitled "In re the support of A.B.". A child custody action shall be entitled "In re
7 the custody of A.B.". An action affecting the family under s. 767.02 (1) (n) shall be
8 entitled "In re the custody, support and physical placement of A. B.", whichever is
9 applicable. In all other respects, the general provisions of chs. 801 and 802
10 respecting the content and form of the summons and pleadings shall apply.

11 **SECTION 13.** 767.077 (intro.) of the statutes, as affected by 1997 Wisconsin Act
12 27, is amended to read:

13 **767.077 Support for dependent child.** (intro.) The state or its delegate
14 under s. 49.22 (7) shall bring an action for support of a minor child under s. 767.02
15 (1) (f) or (n) or, if appropriate, for paternity determination and child support under
16 s. 767.45 whenever the child's right to support is assigned to the state under s.
17 46.261, 48.57 (3m) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm) if all of
18 the following apply:

19 **SECTION 14.** 767.085 (1) (a) of the statutes is amended to read:

20 767.085 (1) (a) The name and birthdate of the parties, the social security
21 numbers of the ~~husband and wife parties~~ parties and their occupations, the date and place
22 of marriage, if the parties are married, and the facts relating to the residence of ~~both~~
23 the parties.

24 **SECTION 15.** 767.085 (1) (b) of the statutes is amended to read:

1 767.085 (1) (b) The name and birthdate of each minor child of the parties and
2 each other child born to ~~the wife~~ a party during the marriage, if the parties are
3 married, and whether ~~the wife~~ a party is pregnant.

4 **SECTION 16.** 767.085 (2) (a) of the statutes is amended to read:

5 767.085 (2) (a) Either or both of the parties to ~~the a marriage~~ either or both
6 of the parents of a child may initiate the action. The party initiating the action or
7 his or her attorney shall sign the petition. Both parties or their respective attorneys
8 shall sign a joint petition.

9 **SECTION 17.** 767.10 (1) of the statutes is amended to read:

10 767.10 (1) The parties in an action for an annulment, divorce or legal
11 separation may, subject to the approval of the court, stipulate for a division of
12 property, for maintenance payments, for the support of children, for periodic family
13 support payments under s. 767.261 or for legal custody and physical placement, in
14 case a divorce or legal separation is granted or a marriage annulled. The parties in
15 an action for custody, child support or periods of physical placement of a child may,
16 subject to the approval of the court, stipulate for the support of the child, for legal
17 custody of the child or for periods of physical placement of the child.

18 **SECTION 18.** 767.115 (1) (a) of the statutes, as affected by 1997 Wisconsin Act
19 (Assembly Bill 270), is amended to read:

20 767.115 (1) (a) At any time during the pendency of an action affecting the family
21 in which a minor child is involved and in which the court or family court
22 commissioner determines that it is appropriate and in the best interest of the child,
23 the court or family court commissioner, on its own motion, may order the parties to
24 attend a program specified by the court or family court commissioner concerning ~~the~~

1 ~~effects on what happens to a child of a dissolution of the marriage if the child's~~
2 ~~parents divorce, legally separate or cease residing together in the same home.~~

3 **SECTION 19.** 767.21 (1) (a) of the statutes is amended to read:

4 767.21 (1) (a) Full faith and credit shall be given in all courts of this state to
5 a judgment in any action affecting the family, except an action relating to child
6 custody, by a court of competent jurisdiction in another state, territory or possession
7 of the United States, when both spouses parties personally appear or when the
8 respondent has been personally served. Full faith and credit shall also be given in
9 all courts of this state to the amount of arrearages owed for nonpayment or late
10 payment of a child support, family support or maintenance payment under an order
11 issued by a court of competent jurisdiction in another state, territory or possession
12 of the United States. A court in this state may not adjust the amount of arrearages
13 owed except as provided in s. 767.32 (1m).

14 **SECTION 20.** 767.24 (1) of the statutes is amended to read:

15 767.24 (1) GENERAL PROVISIONS. In rendering a judgment of annulment, divorce
16 or legal separation, or in rendering a judgment in an action under s. 767.02 (1) (e)
17 or (k) or an action under s. 767.02 (1) (n) relating to custody or physical placement,
18 the court shall make such provisions as it deems just and reasonable concerning the
19 legal custody and physical placement of any minor child of the parties, as provided
20 in this section.

21 **SECTION 21.** 767.25 (1) (intro.) of the statutes is amended to read:

22 767.25 (1) (intro.) Whenever the court approves a stipulation for child support
23 under s. 767.10, enters a judgment of annulment, divorce or legal separation, or
24 enters an order or a judgment in an action under s. 767.02 (1) (f) or (j) or 767.08 or

1 an action under s. 767.02 (1) (n) relating to child support, the court shall do all of the
2 following:

3 **SECTION 22.** 767.25 (1m) (c) of the statutes is amended to read:

4 767.25 (1m) (c) The standard of living the child would have enjoyed had the
5 marriage not ended in annulment, divorce or legal separation or had the child's
6 parents not ceased residing together in the same home.

7 **SECTION 23.** 767.25 (4m) (b) of the statutes is amended to read:

8 767.25 (4m) (b) In addition to ordering child support for a child under sub. (1),
9 the court shall specifically assign responsibility for and direct the manner of
10 payment of the child's health care expenses. In assigning responsibility for a child's
11 health care expenses, the court shall consider whether a child is covered under a
12 parent's health insurance policy or plan at the time the court approves a stipulation
13 for child support under s. 767.10, enters a judgment of annulment, divorce or legal
14 separation, or enters an order or a judgment in an action under s. 767.02 (1) (f) or (j)
15 or 767.08 or an action under s. 767.02 (1) (n) relating to child support, the availability
16 of health insurance to each parent through an employer or other organization, the
17 extent of coverage available to a child and the costs to the parent for the coverage of
18 the child. A parent may be required to initiate or continue health care insurance
19 coverage for a child under this subsection. If a parent is required to do so, he or she
20 shall provide copies of necessary program or policy identification to the custodial
21 parent and is liable for any health care costs for which he or she receives direct
22 payment from an insurer. This subsection shall not be construed to limit the
23 authority of the court to enter or modify support orders containing provisions for
24 payment of medical expenses, medical costs, or insurance premiums which are in
25 addition to and not inconsistent with this subsection.

1 **SECTION 24.** 801.05 (11) of the statutes is amended to read:

2 801.05 (11) (title) ~~CERTAIN MARITAL ACTIONS~~ AFFECTING THE FAMILY. In addition
3 to personal jurisdiction under sub. (1) and s. 801.06, in any action affecting the
4 family, except for actions under ch. 769, in which a personal claim is asserted against
5 the respondent commenced in the county in which the petitioner resides at the
6 commencement of the action when the respondent resided in this state ~~in marital~~
7 ~~relationship~~ with the petitioner for not less than 6 consecutive months within the 6
8 years next preceding the commencement of the action and the respondent is served
9 personally under s. 801.11. The effect of any determination of a child's custody shall
10 not be binding personally against any parent or guardian unless the parent or
11 guardian has been made personally subject to the jurisdiction of the court in the
12 action as provided under this chapter or has been notified under s. 822.05 as provided
13 in s. 822.12.

14 **SECTION 25.** 880.09 (2) of the statutes is renumbered 880.09 (2) (a).

15 **SECTION 26.** 880.09 (2) (b) of the statutes is created to read:

16 880.09 (2) (b) If one parent of a minor is deceased and if the deceased parent
17 did not nominate a guardian under sub. (4), (5) or (6), the court shall appoint as
18 guardian of the person or of the estate, or both, of the minor a person who meets all
19 of the following qualifications, unless the court finds that the appointment of the
20 person as the guardian of the person or of the estate, or both, of the minor is not in
21 the best interests of the minor:

22 1. The person states that he or she agrees to serve as the guardian of the person
23 or of the estate, or both, of the minor if appointed by the court.

24 2. The surviving parent consents to the appointment of the person as the
25 guardian of the person or of the estate, or both, of the minor.

1 **SECTION 27.** 880.09 (2) (c) of the statutes is created to read:

2 880.09 (2) (c) If both parents of the minor are deceased and if the last surviving
3 parent did not nominate a guardian under sub. (4), (5) or (6), the court shall appoint
4 as guardian of the person or of the estate, or both, of the minor a person who meets
5 all of the following qualifications, unless the court finds that the appointment of the
6 person as the guardian of the person or of the estate, or both, of the minor is not in
7 the the best interests of the minor:

8 1. The last surviving parent consented to and fostered the person's formation
9 of a parent-like relationship with the minor.

10 2. The person resided with the minor and the last surviving parent prior to the
11 death of that parent.

12 3. The person assumed obligations of parenthood by taking significant
13 responsibility for the minor's care, education and development, including
14 contributing towards the minor's support, without expectation of financial
15 compensation.

16 4. The person has been in a parental role for a length of time sufficient for the
17 person to have established with the minor a bonded, dependent relationship that is
18 parental in nature.

19 5. The person states that he or she agrees to serve as the guardian of the person
20 or of the estate, or both, of the minor if appointed by the court.

21 **SECTION 28.** 880.15 (1g) of the statutes is created to read:

22 880.15 (1g) PREFERENCE. (a) If one or both of the parents of a minor, a
23 developmentally disabled person or a person with other like incapacity are suitable
24 and willing, the court shall appoint one or both of them as temporary guardian unless

1 the proposed ward objects. The court shall appoint a corporate temporary guardian
2 under s. 880.35 only if no suitable individual guardian is available.

3 (b) If one parent of a minor is deceased and if the deceased parent did not
4 nominate a guardian under s. 880.09 (4), (5) or (6), the court shall appoint as
5 temporary guardian of the person or of the estate, or both, of the minor a person who
6 meets all of the following qualifications, unless the court finds that the appointment
7 of the person as the temporary guardian of the person or of the estate, or both, of the
8 minor is not in the best interests of the minor:

9 1. The person states that he or she agrees to serve as the temporary guardian
10 of the person or of the estate, or both, of the minor if appointed by the court.

11 2. The surviving parent consents to the appointment of the person as the
12 temporary guardian of the person or of the estate, or both, of the minor.

13 (c) If both parents of the minor are deceased and if the last surviving parent
14 did not nominate a guardian under s. 880.09 (4), (5) or (6), the court shall appoint as
15 temporary guardian of the person or of the estate, or both, of the minor a person who
16 meets all of the following qualifications, unless the court finds that the appointment
17 of the person as the temporary temporary guardian of the person or of the estate, or
18 both, of the minor is not in the the best interests of the minor:

19 1. The last surviving parent consented to and fostered the person's formation
20 of a parent-like relationship with the minor.

21 2. The person resided with the minor and the last surviving parent prior to the
22 death of that parent.

23 3. The person assumed obligations of parenthood by taking significant
24 responsibility for the minor's care, education and development, including

1 contributing towards the minor's support, without expectation of financial
2 compensation.

3 4. The person has been in a parental role for a length of time sufficient for the
4 person to have established with the minor a bonded, dependent relationship that is
5 parental in nature.

6 5. The person states that he or she agrees to serve as the temporary guardian
7 of the person or of the estate, or both, of the minor if appointed by the court.

8 **SECTION 29.** 880.155 (title) of the statutes is amended to read:

9 **880.155 (title) Visitation by grandparents and, stepparents and certain**
10 **other persons.**

11 **SECTION 30.** 880.155 (1) of the statutes is renumbered 880.155 (1) (intro.) and
12 amended to read:

13 880.155 (1) (intro.) In this section, ~~“stepparent”~~:

14 (b) “Stepparent” means the surviving spouse of a deceased parent of a minor
15 child, whether or not the surviving spouse has remarried.

16 **SECTION 31.** 880.155 (1) (a) of the statutes is created to read:

17 880.155 (1) (a) “Person who has maintained a relationship similar to a
18 parent-child relationship with the minor” means a person who is not a parent of a
19 minor, but who has resided in the same home with the minor and a parent of the
20 minor prior to the parent's death and who has maintained a relationship similar to
21 a parent-child relationship with the minor within 2 years prior to the date on which
22 a petition under sub. (2) is filed.

23 **SECTION 32.** 880.155 (2) of the statutes is amended to read:

24 880.155 (2) If one or both parents of a minor child are deceased and the child
25 minor is in the custody of the surviving parent or any other person, a grandparent

1 or stepparent of the ~~child~~ minor or a person who has maintained a relationship
2 similar to a parent-child relationship with the minor may petition for visitation
3 privileges with respect to the ~~child~~ minor, whether or not the person with custody is
4 married. The grandparent ~~or~~, stepparent or person who has maintained a
5 relationship similar to a parent-child relationship with the minor may file the
6 petition in a guardianship or temporary guardianship proceeding under this chapter
7 that affects the minor ~~child~~ or may file the petition to commence an independent
8 action under this chapter. The court may grant reasonable visitation privileges to
9 the grandparent ~~or~~, stepparent or person who has maintained a relationship similar
10 to a parent-child relationship with the minor if the surviving parent or other person
11 who has custody of the ~~child~~ minor has notice of the hearing and if the court
12 determines that visitation is in the best interest of the ~~child~~ minor.

13 **SECTION 33.** 880.155 (3) of the statutes is amended to read:

14 880.155 (3) Whenever possible, in making a determination under sub. (2), the
15 court shall consider the wishes of the ~~child~~ minor.

16 **SECTION 34.** 880.155 (5) of the statutes is amended to read:

17 880.155 (5) This section applies to every minor ~~child~~ in this state whose parent
18 or parents are deceased, regardless of the date of death of the parent or parents.

19 (END)