



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4358/1
EAW:jld

2017 SENATE BILL 474

October 18, 2017 - Introduced by Senators OLSEN, DARLING, JOHNSON and MARKLEIN, cosponsored by Representatives RODRIGUEZ, BALLWEG, BILLINGS, BORN, R. BROOKS, DUCHOW, KNODL, MURSAU, QUINN, SKOWRONSKI, C. TAYLOR and TUSLER. Referred to Committee on Judiciary and Public Safety.

1 **AN ACT** *to amend* 767.461; and *to create* 767.34 (3), 767.41 (5m) and 767.451
2 (3r) of the statutes; **relating to:** modifications to legal custody or physical
3 placement contingent upon a future event.

Analysis by the Legislative Reference Bureau

This bill authorizes a court to approve a stipulation for modifications to legal custody or physical placement that are contingent upon the occurrence of a specified future event.

According to case law, a court's authority in actions affecting the family, such as annulments, divorces, legal separations, and paternity actions, is based entirely on the statutes, which with respect to determining legal custody and physical placement "embody a sense of contemporaneity..." *In re Marriage of Koeller v. Koeller*, 195 Wis. 2d 660, 666 (1995). Therefore, the court lacks the authority to include in a custody or physical placement order a prospective modification of custody or physical placement that is contingent upon the occurrence of a future event or a change in current conditions.

Under this bill, in an action affecting the family, the court may approve a stipulated agreement between the parties for modifications to legal custody or physical placement upon the occurrence of a specified future event that is reasonably certain to occur within two years of the date of the parties' stipulation. The bill authorizes the court to approve a stipulation for future modifications filed in an action initially determining legal custody and physical placement, filed for the

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purpose of modifying an initial order of legal custody or physical placement, or filed in an action revising a legal custody or physical placement order.

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

1 **SECTION 1.** 767.34 (3) of the statutes is created to read:

2 767.34 (3) APPROVAL OF MODIFICATIONS CONTINGENT ON FUTURE EVENT. A court
3 may approve a stipulation for legal custody and physical placement that includes
4 modifications to legal custody or physical placement upon the occurrence of a
5 specified future event that is reasonably certain to occur within 2 years of the date
6 of the stipulation.

7 **SECTION 2.** 767.41 (5m) of the statutes is created to read:

8 767.41 (5m) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
9 EVENT. In making an order of legal custody under sub. (2) or (3) or physical placement
10 under sub. (4), the court may approve a stipulation for modifications to legal custody
11 or physical placement upon the occurrence of a specified future event that is
12 reasonably certain to occur within 2 years of the date of the stipulation and
13 incorporate the terms of the stipulation into the order.

14 **SECTION 3.** 767.451 (3r) of the statutes is created to read:

15 767.451 (3r) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
16 EVENT. Notwithstanding sub. (1), in an action to modify a legal custody or physical
17 placement order, the court may approve a stipulation for further modifications to
18 legal custody or physical placement upon the occurrence of a specified future event
19 that is reasonably certain to occur within 2 years of the date of the stipulation and
20 incorporate the terms of the stipulation into any revised legal custody or physical
21 placement order granted by the court.

