



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1027/2
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2015 ASSEMBLY BILL 39

February 17, 2015 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Children and Families.

1 **AN ACT to amend** 48.63 (3) (b) 2., 48.83 (1), 48.833 (1) and (2), 48.837 (1r) (b) and
2 48.88 (2) (a) (intro.); and **to create** 48.75 (3), 48.88 (2) (aj) and 48.88 (2) (d) of
3 the statutes; **relating to:** jurisdiction and venue in adoption proceedings and
4 investigation of suitability of a home for adoption of a child.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Adoption Disruption and Dissolution.

Jurisdiction and Venue

Under current law, a petition for adoption or adoptive placement of a child must be filed in the county where the proposed adoptive parent or child resides.

This bill extends jurisdiction and venue to allow a proceeding for an adoption or adoptive placement to be heard in the county in which a petition for termination of

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parental rights to the child was filed or granted, in addition to the county in which the child or proposed adoptive parent resides.

Home Study

Under current law, in order to adopt a child in Wisconsin a county, licensed adoption agency, or the Bureau of Milwaukee Child Welfare (BMCW) in the Department of Children and Families (DCF) must investigate whether a proposed adoptive family's home is suitable for the child. This is commonly referred to as a "home study." Certain aspects of the home study are governed by administrative rule.

This bill requires all counties, licensed adoption agencies, and BMCW to use a standardized qualitative assessment system for the home study that is approved by DCF. The bill requires the standardized assessment to be used in licensing a home for foster care and, if supplemented to evaluate suitability of the home for a child who is the subject of an adoption, need not be repeated for purposes of the adoption. Under this bill, the requirement for a standardized home study applies to all public and private adoptions in Wisconsin, whether the child is a U.S. or foreign citizen, but does not apply to an adoption by a stepparent for which other screening standards are required under current law. In any case in which there is special cause for concern as to the welfare of the child or the suitability of the placement, an assessment may include a clinical assessment of the proposed adoptive parents that is conducted by someone outside the unit of the agency that is administering the home study or any other unit of the agency.

1 **SECTION 1.** 48.63 (3) (b) 2. of the statutes is amended to read:

2 48.63 (3) (b) 2. The department, a county department under s. 48.57 (1) (e) or
3 (hm), or a child welfare agency licensed under s. 48.60 may place a child under subd.
4 1. in the home of a proposed adoptive parent or parents who reside in this state if that
5 home is licensed as a foster home under s. 48.62 and the investigation made under
6 s. 48.75 (3) has been supplemented to evaluate whether the home is suitable for the
7 child.

NOTE: This SECTION requires a standardized home study done at the request of a proposed adoptive parent whose home is licensed as a foster home to be supplemented to evaluate suitability of the home for a specific child before placing the child in the proposed adoptive home.

8 **SECTION 2.** 48.75 (3) of the statutes is created to read:

9 48.75 (3) Before issuing a license under sub. (1d) or (1g), a child welfare agency
10 or public licensing agency shall require that each foster parent receive a favorable
11 report following an investigation that is conducted in the same manner as an
12 investigation under s. 48.88 (2) (aj) is conducted.

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NOTE: This SECTION requires that a home that is being licensed to provide foster care be investigated using the same standardized home study that is required under this bill for purposes of adopting a child.

1 **SECTION 3.** 48.83 (1) of the statutes is amended to read:

2 48.83 (1) Except as provided in s. 48.028 (3) (b), the court of the county where
3 the proposed adoptive parent or child resides or the court of the county where a
4 petition for termination of parental rights to the child was filed or granted under
5 subch. VIII, upon the filing with that court of a petition for adoption or for the
6 adoptive placement of a child, has jurisdiction over the child until the petition is
7 withdrawn, denied, or granted. Venue in a proceeding for adoption or adoptive
8 placement of a child shall be in the county where the proposed adoptive parent or
9 child resides at the time the petition is filed or in the county where a petition for
10 termination of parental rights to the child was filed or granted under subch. VIII.
11 The court may transfer the case to a court in the county in which the proposed
12 adoptive parents reside.

NOTE: This SECTION allows jurisdiction and venue in a proceeding for an adoption or adoptive placement of a child to be in the county in which a petition for termination of parental rights to the child was filed or granted, in addition to the jurisdiction and venue allowed under current law for the county in which the child or proposed adoptive parent resides.

13 **SECTION 4.** 48.833 (1) and (2) of the statutes are amended to read:

14 48.833 (1) PLACEMENT BY DEPARTMENT OR COUNTY DEPARTMENT. The department
15 or a county department under s. 48.57 (1) (e) or (hm) may place a child for adoption
16 in a licensed foster home without a court order ~~under s. 48.63 (3) (b)~~ or if the
17 department or county department is the guardian of the child or makes the
18 placement at the request of another agency that is the guardian of the child, if the
19 investigation made under s. 48.75 (3) has been supplemented to evaluate whether
20 the home is suitable for the child, and if the proposed adoptive parents have

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1 completed the preadoption preparation required under s. 48.84 (1) or the department
2 or county department determines that the proposed adoptive parents are not
3 required to complete that preparation. The department or a county department
4 under s. 48.57 (1) (e) or (hm) may also place a child for adoption in a licensed foster
5 home without a court order under s. 48.63 (3) (b). When a child is placed under this
6 subsection in a licensed foster home for adoption, the department or county
7 department making the placement shall enter into a written agreement with the
8 proposed adoptive parent, which shall state the date on which the child is placed in
9 the licensed foster home for adoption by the proposed adoptive parent.

10 (2) PLACEMENT BY CHILD WELFARE AGENCY. A child welfare agency licensed under
11 s. 48.60 may place a child for adoption in a licensed foster home without a court order
12 ~~under s. 48.63 (3) (b) or~~ if the child welfare agency is the guardian of the child or
13 makes the placement at the request of another agency that is the guardian of the
14 child, if the investigation made under s. 48.75 (3) has been supplemented to evaluate
15 whether the home is suitable for the child, and if the proposed adoptive parents have
16 completed the preadoption preparation required under s. 48.84 (1) or the child
17 welfare agency determines that the proposed adoptive parents are not required to
18 complete that preparation. A child welfare agency licensed under s. 48.60 may also
19 place a child for adoption in a licensed foster home without a court order under s.
20 48.63 (3) (b). When a child is placed under this subsection in a licensed foster home
21 for adoption, the child welfare agency making the placement shall enter into a
22 written agreement with the proposed adoptive parent, which shall state the date on
23 which the child is placed in the licensed foster home for adoption by the proposed
24 adoptive parent.

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NOTE: This SECTION requires a standardized home study done for the purpose of placing a child for adoption in a licensed foster home to be supplemented to evaluate suitability of the home for a specific child before DCF, a county, or a licensed child welfare agency may place the child in the home for adoption under agency adoption procedures.

1 **SECTION 5.** 48.837 (1r) (b) of the statutes is amended to read:

2 48.837 **(1r)** (b) The department, a county department under s. 48.57 (1) (e) or
3 (hm), or a child welfare agency licensed under s. 48.60 may place a child under par.
4 (a) in the home of a proposed adoptive parent or parents who reside in this state if
5 that home is licensed as a foster home under s. 48.62 and the investigation made
6 under s. 48.75 (3) has been supplemented to evaluate whether the home is suitable
7 for the child.

NOTE: This SECTION requires a standardized home study done for the purpose of placing a child for adoption in a licensed foster home to be supplemented to evaluate suitability of the home for a specific child before DCF, a county, or a licensed child welfare agency may place the child in the home under independent adoption procedures.

8 **SECTION 6.** 48.88 (2) (a) (intro.) of the statutes is amended to read:

9 48.88 **(2)** (a) (intro.) Except as provided under pars. (ag) and, (c), and (d), when
10 a petition to adopt a child is filed, the court shall order an investigation to determine
11 whether the child is a proper subject for adoption and whether the petitioner's home
12 is suitable for the child. The court shall order one of the following to conduct or
13 supplement the investigation:

NOTE: This SECTION adjusts a cross-reference to the exceptions from the general requirement for a court to order an investigation as to whether an adoption petitioner has a suitable home for the child, in order to include the exception created under this bill when a standardized home study was conducted to place the child in the home for foster care. This SECTION also allows a court to order that a foster care home study be supplemented for purposes of the adoption.

14 **SECTION 7.** 48.88 (2) (aj) of the statutes is created to read:

15 48.88 **(2)** (aj) 1. In determining whether the petitioner's home is suitable for
16 the child, the agency or tribal child welfare department making the investigation
17 shall consider whether the petitioner is fit and qualified to care for the child,

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1 exercises sound judgment, does not abuse alcohol or drugs, and displays the capacity
2 to successfully nurture the child.

3 2. The investigation shall be conducted using an assessment system that is
4 approved by the department. The assessment system shall provide a reliable,
5 comprehensive, and standardized qualitative evaluation of a petitioner's personal
6 characteristics, civil and criminal history, age, health, financial stability, and ability
7 to responsibly meet all requirements of the department.

8 3. If the agency or tribal child welfare department making the investigation has
9 special concern as to the welfare of the child or the suitability of the placement, the
10 investigation may include a clinical assessment of the petitioner's mental health or
11 alcohol or other drug use by an employee of the agency or tribal child welfare
12 department who is not employed in the unit of the agency or tribal child welfare
13 department that is making the investigation or by a person who is not employed by
14 that agency or tribal child welfare department. A person who provides such an
15 assessment shall be a licensed psychologist, licensed psychiatrist, certified advanced
16 practice social worker, certified independent social worker, licensed clinical social
17 worker, or licensed professional counselor.

NOTE: This SECTION requires that a standardized system be used in assessing a
home for an adoption in all cases other than an adoption by a stepparent. This SECTION
also specifies that the home study may include a clinical assessment of the proposed
adoptive parents if there is special concern as to the welfare of the child or the suitability
of the placement.

18 **SECTION 8.** 48.88 (2) (d) of the statutes is created to read:

19 48.88 (2) (d) An investigation is not required under this subsection if all of the
20 following apply:

21 1. The petitioner is licensed to operate a foster home and the license is in effect
22 at the time the adoption petition is filed.

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1 2. The petitioner has never had a license to operate a foster home revoked or
2 suspended.

3 3. An investigation as to the suitability of the petitioner's home was conducted
4 as provided in par. (aj) for the purpose of licensing the petitioner's home for foster
5 care and the investigation has been supplemented to evaluate whether the
6 petitioner's home is suitable for the child who is the subject of the adoption.

NOTE: This SECTION creates an exception to the general requirement for a court to order an investigation as to whether an adoption petitioner has a suitable home for the child if a standardized home study required under this bill was conducted for the purpose of licensing the home for foster care and the home study has been supplemented to evaluate suitability of the home for the specific child who is the subject of the adoption.

7 **SECTION 9. Initial applicability.**

8 (1) HOME STUDIES FOR FOSTER CARE PLACEMENT. The treatment of section 48.75
9 (3) of the statutes first applies to an initial application for a foster home license
10 submitted on the effective date of this subsection.

11 (2) HOME STUDIES FOR ADOPTION. The treatment of section 48.88 (2) (aj) 2. of the
12 statutes first applies to the placement of a child for adoption under section 48.63 (3)
13 (b), 48.833, 48.835, 48.837, or 48.839 of the statutes on the effective date of this
14 subsection.

NOTE: This SECTION specifies that the standardized home study that is required under this bill is required for an adoptive placement that is made on or after the effective date of the bill and for an initial foster care license that is applied for on or after the effective date of the bill.

15 **SECTION 10. Effective dates.** This act takes effect on the day after publication,
16 except as follows:

17 (1) The treatment of sections 48.63 (3) (b) 2., 48.75 (3), 48.833 (1) and (2), 48.837
18 (1r) (b), and 48.88 (2) (a) (intro.), (aj), and (d) of the statutes takes effect on the first
19 day of the 6th month beginning after publication.

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NOTE: This SECTION delays the effective date of the provisions in this bill for a standardized home study until six months after the bill is enacted.

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(END)