

State of Wisconsin



2015 Assembly Bill 41

Date of enactment: April 25, 2016
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2015 WISCONSIN ACT 380

AN ACT *to renumber and amend* 48.97; *to amend* 48.81 (6), 48.838 (3), 48.839 (2) (b), 48.839 (2) (c), 48.97 (title), 54.52 (1) and 69.15 (2) (b); and *to create* 48.97 (2), 48.97 (3), 69.14 (2) (c) and 69.15 (2) (e) of the statutes; **relating to:** effect and recognition of foreign adoption and guardianship decrees.

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

SECTION 1. 48.81 (6) of the statutes is amended to read:

48.81 (6) The child is being ~~readopted~~ adopted under s. 48.97 (3).

SECTION 2. 48.838 (3) of the statutes is amended to read:

48.838 (3) The department may also charge a fee of not more than \$75 to the adoptive parents for the review and certification of adoption documents, ~~and for the provision of departmental approval of placements as specified in s. 48.97,~~ for adoptions that occur in a foreign country.

SECTION 3. 48.839 (2) (b) of the statutes is amended to read:

48.839 (2) (b) If the guardian files a judgment or order of a court under par. (a), the department shall review the judgment or order. If the department determines that the judgment or order has the effect of freeing the child for adoption, if the department has been furnished with a copy of a home study that was conducted as provided in s. 48.88 (2) recommending the guardian as an adoptive parent, if a licensed child welfare agency has been identified to provide the services required under sub. (5), if the guardian has filed the bond required under

sub. (1), and if the guardian has completed the preadoption preparation required under s. 48.84 (1) or the department has determined that the guardian is not required to complete that preparation, the department shall certify to the U.S. ~~immigration and naturalization service~~ citizenship and immigration services that all preadoptive requirements of this state that can be met before the child's arrival in the United States have been met.

SECTION 4. 48.839 (2) (c) of the statutes is amended to read:

48.839 (2) (c) If the guardian files an instrument other than a judgment or order of a court under par. (a), the department shall review the instrument. If the department determines that the instrument has the effect under the laws of the foreign jurisdiction of freeing the child for adoption, if the department has been furnished with a copy of a home study recommending the adoptive parents, if a licensed child welfare agency has been identified to provide the services required under sub. (5), if the guardian has filed the bond required under sub. (1), and if the guardian has completed the preadoption preparation required under s. 48.84 (1) or the department has determined that the guardian is not required to complete that preparation, the department shall certify to the U.S. ~~immigration and naturalization service~~ citizenship and immigration services that all preadoptive requirements

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

of this state that can be met prior to the child's arrival in the United States have been met.

SECTION 5. 48.97 (title) of the statutes is amended to read:

48.97 (title) Adoption and guardianship orders of other jurisdictions.

SECTION 6. 48.97 of the statutes is renumbered 48.97 (1) and amended to read:

48.97 (1) EFFECT AND RECOGNITION OF ADOPTION DECREES OF OTHER STATES. When the relationship of parent and child has been created by an order of adoption of a court of any other state or nation, the rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined by s. 48.92. ~~If the adoptive parents were residents of this state at the time of the foreign adoption, the preceding sentence applies only if the department has approved the placement. A child whose adoption would otherwise be valid under this section may be readopted in accordance with this chapter under s. 48.92 as though the order of adoption was entered by a court of this state.~~

SECTION 7. 48.97 (2) of the statutes is created to read:

48.97 (2) EFFECT AND RECOGNITION OF FOREIGN ADOPTION DECREES. If the adoption of a child who was born in a foreign jurisdiction and who was not a citizen of the United States at the time of birth was finalized under the laws of the jurisdiction from which the child was adopted and if the child was admitted to the United States with an IR-3 or IH-3 visa issued by the U.S. citizenship and immigration services, all of the following apply:

(a) The adoption shall be recognized by this state and the rights and obligations of the adoptive parent and child shall be determined under s. 48.92 as though the order of adoption was entered by a court of this state.

(b) The adoptive parent shall not be required to readopt the child in this state.

(c) Within 365 days of a child being admitted to the United States, the adoptive parent shall submit a letter to the court requesting registration of the foreign adoption order. The parent shall include in the request all of the following:

1. Evidence as to the date, place of birth, and parentage of the child.

2. A certified or notarized copy of the final order of adoption entered by a court of the foreign jurisdiction and, if that final order is not in English, a certified translation or a notarized copy of a certified translation of that final order.

3. A sworn statement by the adoptive parent including all of the following:

a. That a home study was completed as required or recognized by this state and the home study recommends the parent as an adoptive parent.

b. That the required preadoption training was completed.

c. That the adoptive parent is receiving and will receive supervision from a licensed child welfare agency in the United States until the court enters an order registering the foreign adoption order and has satisfied all pre-adoption training requirements.

4. The name and address of the adoptive parents and the child.

5. Any other information necessary for the state registrar to prepare a certification of birth data for the child.

(d) Upon receipt of the letter under par. (c), the court shall enter an order registering the foreign adoption order, and may change the name of the child to that requested by the adoptive parents. The court shall then transmit the order registering the foreign adoption order to the state registrar.

(e) An order registering the foreign adoption order shall have the same effect as an adoption order granted under s. 48.91.

SECTION 8. 48.97 (3) of the statutes is created to read:

48.97 (3) EFFECT AND RECOGNITION OF FOREIGN GUARDIANSHIP DECREES; ADDITIONAL REQUIREMENTS. If a resident of this state has been appointed guardian of a child who was born in a foreign jurisdiction and who was not a citizen of the United States at the time of birth and the child was admitted to the United States with an IR-4 or IH-4 visa issued by the U.S. citizenship and immigration services, the guardian shall adopt the child under s. 48.839.

SECTION 9. 54.52 (1) of the statutes is amended to read:

54.52 (1) A person may at any time bring a petition for the appointment of a standby guardian of the person or estate of an individual who is determined under s. 54.10 to be incompetent, a minor, or a spendthrift, except that, as specified in s. ~~48.97~~ 48.978 a petition for the appointment of a standby guardian of the person or property or both of a minor to assume the duty and authority of guardianship on the incapacity, death, or debilitation and consent, of the minor's parent may be brought under s. 48.978.

SECTION 10. 69.14 (2) (c) of the statutes is created to read:

69.14 (2) (c) This subsection does not apply to a child who was adopted under the circumstances described in s. 48.97 (2).

SECTION 10r. 69.15 (2) (b) of the statutes is amended to read:

69.15 (2) (b) If the state registrar receives an order under sub. (1) which provides for an adoption of any person born outside of the United States by any person who is a resident of this state at the time of adoption, and if the adoptive parents present proof of the facts of birth to the state registrar, the state registrar shall prepare a certification of birth data for the subject of the adoption. The certification shall indicate the date and place of birth, the

child's adoptive name, the adoptive parents' names, and the sources of information of each of these facts. If the child has automatically acquired U.S. citizenship under 8 USC 1431 upon a court order granting an adoption after a foreign guardianship order as required under s. 48.97 (3), the certification shall also indicate that the child is recognized as a U.S. citizen by this state and that the certification shall have the full force and effect of a birth certificate issued by the state registrar. If neither of the birth parents of the subject of the adoption are U.S. citizens, the new certification may include proof of the naturalization of the subject of the adoption.

SECTION 11. 69.15 (2) (e) of the statutes is created to read:

69.15 (2) (e) If the state registrar receives an order under s. 48.97 (2) (d) registering the foreign adoption of a child who was adopted under the circumstances described in s. 48.97 (2), the state registrar shall prepare a certification of birth data for the child using the form in use at the time the court submits the information under s. 48.97 (2) (d). The certification shall indicate the date and place of birth, the child's adoptive name, the adoptive parents' names, and the sources of information of each of these facts. If the child has automatically acquired U.S. citizenship under 8 USC 1431 upon a court order regis-

tering a foreign adoption order under s. 48.97 (2) (d), the certification shall also indicate that the child is recognized as a U.S. citizen by this state and that the certification shall have the full force and effect of a birth certificate issued by the state registrar.

SECTION 12m. Initial applicability.

(1) EFFECT AND RECOGNITION OF FOREIGN ADOPTION AND GUARDIANSHIP DECREES. The treatment of sections 48.81 (6), 48.838 (3), and 48.839 (2) (b) and (c) of the statutes, the renumbering and amendment of section 48.97 of the statutes, the amendment of section 48.97 (title) of the statutes, and the creation of section 48.97 (2) and (3) of the statutes first apply to a child admitted to the United States on the effective date of this subsection.

(2) CERTIFICATIONS OF BIRTH DATA FOR FOREIGN ADOPTEES. The treatment of sections 69.14 (2) (c) and 69.15 (2) (b) and (e) of the statutes first applies to a court order providing for the adoption, or registering the adoption, of a child born outside of the United States granted on the effective date of this subsection.

SECTION 13m. Effective date.

(1) EFFECT AND RECOGNITION OF FOREIGN ADOPTION AND GUARDIANSHIP DECREES. This act takes effect on the first day of the 2nd month beginning after publication.