

State of Wisconsin



2021 Senate Bill 116

Date of enactment: **March 26, 2021**
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2021 WISCONSIN ACT 20

AN ACT *to renumber and amend* 767.461; and *to create* 767.34 (3), 767.41 (5m), 767.451 (3r) and 767.461 (1) to (4) of the statutes; **relating to:** modifications to legal custody or physical placement contingent upon a future event.

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

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

767.34 (3) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE EVENT. (a) In this subsection, "future event" means a life event of a party or of the child or a change in the developmental or educational needs of the child.

(b) A court may approve a stipulation for legal custody and physical placement that includes modifications to legal custody or physical placement upon the occurrence of a specified future event that is reasonably certain to occur within 2 years of the date of the stipulation. A court may not approve a stipulation under this subsection that is based on an anticipated behavior modification of a party.

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

767.41 (5m) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE EVENT. In making an order of legal custody under sub. (2) or (3) or physical placement under sub. (4), the court may approve a stipulation for modifications to legal custody or physical placement upon the occurrence of a specified future event, as defined in s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the date of the stipula-

tion and incorporate the terms of the stipulation into the order. The court may not approve a stipulation under this subsection that is based on an anticipated behavior modification of a party.

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

767.451 (3r) APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE EVENT. Notwithstanding sub. (1), in an action to modify a legal custody or physical placement order, the court may approve a stipulation for further modifications to legal custody or physical placement upon the occurrence of a specified future event, as defined in s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the date of the stipulation and incorporate the terms of the stipulation into any revised legal custody or physical placement order granted by the court. The court may not approve a stipulation under this subsection that is based on an anticipated behavior modification of a party.

SECTION 4. 767.461 of the statutes is renumbered 767.461 (intro.) and amended to read:

767.461 Revisions agreed to by stipulation. (intro.) If after an initial order is entered under s. 767.41 the parties agree to a modification in an order of physical placement or legal custody and file a stipulation with the court that specifies the agreed upon modification, including a modification to physical placement or legal custody upon the occurrence of a specified future event, as

* 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."

defined in s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the date of the stipulation, the court shall incorporate the terms of the stipulation into a revised order of physical placement or legal custody unless the court finds that the modification is not in the best interest of the child. The court may not incorporate the terms of a stipulation that is based on an anticipated behavior modification of a party, including for the completion of any of the following:

SECTION 5. 767.461 (1) to (4) of the statutes are created to read:

767.461 (1) An anger management course or therapy.

(2) A batterers intervention program.

(3) A drug or alcohol treatment or therapy.

(4) A term of incarceration, extended supervision, parole or probation for a violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19, 940.195, 940.20, 940.201 (2), 940.203 (2), 940.225 (1), (2), or (3), 940.23, 940.235, 940.24 (1), 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e), or (2m), 940.42, 940.43, 940.44, 940.45, 941.20, 941.29, 941.30, 941.39,

943.011 (2), 947.012, 947.013, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.085, 948.095, 948.30, 948.55, or 951.02 or any felony to which the penalty enhancer under s. 939.621 could be imposed, for a violation of a 72-hour no contact order under s. 968.075 (5), for a violation of a domestic abuse restraining order, child abuse restraining order, or harassment restraining order, or for a violation to which a penalty enhancer for the use of a dangerous weapon is applied.

SECTION 6. Initial applicability.

(1) The treatment of ss. 767.34 (3), 767.41 (5m), and 767.451 (3r) first applies to actions or proceedings, including actions or proceedings to modify a judgment or order previously granted, that are commenced on the effective date of this subsection.

(2) The renumbering and amendment of s. 767.461 and the creation of s. 767.461 (1) to (4) first apply to stipulations filed with the court on the effective date of this subsection.