

State of Wisconsin



2021 Senate Bill 24

Date of enactment: **July 15, 2021**
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2021 WISCONSIN ACT 72

AN ACT *to renumber and amend* 48.345 (3) (a), 48.345 (3) (b), 938.34 (3) (a) and 938.34 (3) (b); and *to create* 48.345 (3) (a) 2., 48.345 (3) (b) 2., 48.685 (4m) (b) 2. and 2m., 938.34 (3) (a) 2. and 938.34 (3) (b) 2. of the statutes; **relating to:** prohibiting the out-of-home placement of a child with a person with a record of a crime against a child.

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

SECTION 1. 48.345 (3) (a) of the statutes is renumbered 48.345 (3) (a) (intro.) and amended to read:

48.345 (3) (a) (intro.) The home of a parent or other relative of the child, except that the judge may not designate ~~the home of a parent or other relative of the child~~ any of the following as the child's placement, unless the judge determines by clear and convincing evidence that the placement would be in the best interests of the child or, in the case of an Indian child, the best interests of the Indian child as described in s. 48.01 (2):

1. ~~The home of a parent or other relative~~ if the parent or other relative has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction has not been reversed, set aside, or vacated, ~~unless the judge determines by clear and convincing evidence that the~~. In determining whether a placement under this subdivision would be in the best interests of the child. The, the judge shall consider the wishes of the child ~~in making that determination.~~

SECTION 2. 48.345 (3) (a) 2. of the statutes is created to read:

48.345 (3) (a) 2. The home of a relative other than the parent of a child if the judge finds that the relative has

been convicted of, has pleaded no contest to, or has had a charge dismissed or amended as a result of a plea agreement for a crime under s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

SECTION 3. 48.345 (3) (b) of the statutes is renumbered 48.345 (3) (b) (intro.) and amended to read:

48.345 (3) (b) (intro.) The home of a person who is not required to be licensed if placement is for less than 30 days, except that the judge may not designate ~~the home of a person who is not required to be licensed~~ any of the following as the child's placement, unless the judge determines by clear and convincing evidence that the placement would be in the best interests of the child or, in the case of an Indian child, the best interests of the Indian child as described in s. 48.01 (2):

1. The home of a person who is not required to be licensed if the person has been convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction has not been reversed, set aside, or vacated, ~~unless the judge determines by clear and convincing evidence that the~~. In determining whether a placement under this subdivision would be in

* 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."

the best interests of the child. ~~The, the~~ judge shall consider the wishes of the child ~~in making that determination.~~

SECTION 4. 48.345 (3) (b) 2. of the statutes is created to read:

48.345 (3) (b) 2. The home of a person who is not required to be licensed if the judge finds that the person has been convicted of, has pleaded no contest to, or has had a charge dismissed or amended as a result of a plea agreement for a crime under s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

SECTION 5. 48.685 (4m) (b) 2. and 2m. of the statutes are created to read:

48.685 (4m) (b) 2. That the person was charged for a violation of s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state, and the charge was dismissed or amended as part of a plea agreement.

2m. That the person has pleaded no contest to a violation of s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

SECTION 6. 938.34 (3) (a) of the statutes is renumbered 938.34 (3) (a) (intro.) and amended to read:

938.34 (3) (a) (intro.) The home of a parent or other relative of the juvenile, except that the court may not designate ~~the home of a parent or other relative of the juvenile~~ any of the following as the juvenile's placement, unless the court determines by clear and convincing evidence that the placement would be in the best interests of the juvenile or, in the case of an Indian juvenile, the best interests of the Indian juvenile as described in s. 938.01 (3):

1. The home of a parent or other relative of the juvenile if the parent or other relative has been convicted of the homicide of a parent of the juvenile under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated, ~~unless the court determines by clear and convincing evidence that the.~~ In determining whether a

placement under this subdivision would be in the best interests of the juvenile. ~~The, the~~ court shall consider the wishes of the juvenile ~~in making that determination.~~

SECTION 7. 938.34 (3) (a) 2. of the statutes is created to read:

938.34 (3) (a) 2. The home of a relative other than the parent of the juvenile if the court finds that the relative has been convicted of, has pleaded no contest to, or has had a charge dismissed or amended as a result of a plea agreement for a crime under s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

SECTION 8. 938.34 (3) (b) of the statutes is renumbered 938.34 (3) (b) (intro.) and amended to read:

938.34 (3) (b) (intro.) The home of a person who is not required to be licensed if placement is for less than 30 days, except that the court may not designate ~~the home of a person who is not required to be licensed~~ any of the following as the juvenile's placement if the, unless the court determines by clear and convincing evidence that the placement would be in the best interests of the juvenile or, in the case of an Indian juvenile, the best interests of the Indian juvenile as described in s. 938.01 (3):

1. The home of a person who is not required to be licensed if the court finds that the person has been convicted of the homicide of a parent of the juvenile under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated, ~~unless the court determines by clear and convincing evidence that the.~~ In determining whether a placement under this subdivision would be in the best interests of the juvenile. ~~The, the~~ court shall consider the wishes of the juvenile ~~in making that determination.~~

SECTION 9. 938.34 (3) (b) 2. of the statutes is created to read:

938.34 (3) (b) 2. The home of a person who is not required to be licensed if the court finds that the person has been convicted of, has pleaded no contest to, or has had a charge dismissed or amended as a result of a plea agreement for a crime under s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.