



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 26**

March 1, 2021 - Offered by Representative TITTL.

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

Analysis by the Legislative Reference Bureau

Under current law, if the juvenile court places a child or juvenile who is found to be in need of protection or services in an out-of-home placement in a foster home, a shelter care facility, a group home, or a subsidized guardianship or with a relative who receives kinship care payments, the out-of-home placement is required to be licensed under the Children's Code. A licensed out-of-home placement may not employ a person or house a person as a nonclient resident if the person has been convicted or adjudicated delinquent of certain offenses, including certain crimes against a child, or has been determined by a child protective services agency to have abused or neglected a child. Under this bill, a licensed out-of-home placement may not employ a person or house a person as a nonclient resident if the person has pleaded no contest to a charge of certain crimes against a child or has had a charge for those crimes dismissed or amended as a result of a plea agreement.

Under current law, the juvenile court may place a child or juvenile who is found to be in need of protection or services in the home of a relative without a license or may temporarily place a child with another person who is not licensed under the Children's Code, unless the relative or unlicensed person has been convicted of the first-degree or second-degree intentional homicide of a parent of the child. Under current law, the juvenile court may nevertheless place a child or juvenile with such a person if the court finds, by clear and convincing evidence, that the placement is in the best interests of the child or juvenile, taking into account the wishes of the child or juvenile.

Under this bill, the juvenile court also generally may not place a child or juvenile with a relative other than a parent or with another person who is not licensed under the Children's Code if the relative or unlicensed person has been convicted of, pleaded no contest to, or been subject to a plea agreement for certain crimes against a child that would disqualify the person from receiving a license under the Children's Code. Under the bill, the juvenile court may nevertheless place a child or juvenile with such a person if the court finds, by clear and convincing evidence, that the placement is in the best interests of the child or juvenile.

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

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

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

8 1. The home of a parent or other relative if the parent or other relative has been
9 convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05
10 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction
11 has not been reversed, set aside, or vacated, ~~unless the judge determines by clear and~~
12 ~~convincing evidence that the.~~ In determining whether a placement under this

1 ~~subdivision~~ would be in the best interests of the child. ~~The, the~~ judge shall consider
2 the wishes of the child ~~in making that determination.~~

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

4 48.345 (3) (a) 2. The home of a relative other than the parent of a child if the
5 judge finds that the relative has been convicted of, has pleaded no contest to, or has
6 had a charge dismissed or amended as a result of a plea agreement for a crime under
7 s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051,
8 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12,
9 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

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

12 48.345 (3) (b) (intro.) The home of a person who is not required to be licensed
13 if placement is for less than 30 days, except that the judge may not designate the
14 home of a person who is not required to be licensed any of the following as the child's
15 placement, unless the judge determines by clear and convincing evidence that the
16 placement would be in the best interests of the child:

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

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

1 48.345 (3) (b) 2. The home of a person who is not required to be licensed if the
2 judge finds that the person has been convicted of, has pleaded no contest to, or has
3 had a charge dismissed or amended as a result of a plea agreement for a crime under
4 s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051,
5 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12,
6 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

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

8 48.685 (4m) (b) 2. That the person was charged for a violation of s. 948.02 (1)
9 or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06,
10 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21,
11 948.215, 948.30, or 948.53, or a similar law of another state, and the charge was
12 dismissed or amended as part of a plea agreement.

13 2m. That the person has pleaded no contest to a violation of s. 948.02 (1) or (2),
14 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051, 948.055, 948.06, 948.07,
15 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12, 948.13, 948.21, 948.215,
16 948.30, or 948.53, or a similar law of another state.

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

19 938.34 (3) (a) (intro.) The home of a parent or other relative of the juvenile,
20 except that the court may not designate the home of a parent or other relative of the
21 juvenile any of the following as the juvenile's placement, unless the court determines
22 by clear and convincing evidence that the placement would be in the best interests
23 of the child:

24 1. The home of a parent or other relative of the juvenile if the parent or other
25 relative has been convicted of the homicide of a parent of the juvenile under s. 940.01

1 or 940.05, and the conviction has not been reversed, set aside, or vacated, ~~unless the~~
2 ~~court determines by clear and convincing evidence that the.~~ In determining whether
3 a placement under this subdivision would be in the best interests of the juvenile.
4 ~~The, the~~ court shall consider the wishes of the juvenile ~~in making that determination.~~

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

6 938.34 (3) (a) 2. The home of a relative other than the parent of the juvenile
7 if the court finds that the relative has been convicted of, has pleaded no contest to,
8 or has had a charge dismissed or amended as a result of a plea agreement for a crime
9 under s. 948.02 (1) or (2), 948.025, 948.03 (2) or (5) (a) 1., 2., 3., or 4., 948.05, 948.051,
10 948.055, 948.06, 948.07, 948.08, 948.081, 948.085, 948.11 (2) (a) or (am), 948.12,
11 948.13, 948.21, 948.215, 948.30, or 948.53, or a similar law of another state.

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

14 938.34 (3) (b) (intro.) The home of a person who is not required to be licensed
15 if placement is for less than 30 days, except that the court may not designate the
16 ~~home of a person who is not required to be licensed~~ any of the following as the
17 juvenile's placement ~~if the,~~ unless the court determines by clear and convincing
18 evidence that the placement would be in the best interests of the juvenile:

19 1. The home of a person who is not required to be licensed if the court finds that
20 the person has been convicted of the homicide of a parent of the juvenile under s.
21 940.01 or 940.05, and the conviction has not been reversed, set aside, or vacated,
22 ~~unless the court determines by clear and convincing evidence that the.~~ In
23 determining whether a placement under this subdivision would be in the best
24 interests of the juvenile. ~~The, the~~ court shall consider the wishes of the juvenile ~~in~~
25 ~~making that determination.~~

