



## 2021 ASSEMBLY BILL 26

January 29, 2021 - Introduced by Representatives TITTL, CALLAHAN, DITTRICH, DRAKE, GUNDRUM, MURPHY, ROZAR and WICHGERS, cosponsored by Senators JACQUE, NASS, CARPENTER and COWLES. Referred to Committee on Children and Families.

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

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### *Analysis by the Legislative Reference Bureau*

Under current law, if the juvenile court places a child 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, 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 pled 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 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 first-degree or second-degree intentional homicide of a parent of the child. Under

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current law, the juvenile court may still place a child with such a person if the court finds, by clear and convincing evidence, that the placement is in the best interests of the child, taking into account the wishes of the child.

Under this bill, the juvenile court also 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, pled no contest to, or been subject to a plea agreement for a crime against a child. Under the bill, the juvenile court may still place a child with such a person if the court finds, by clear and convincing evidence, that the placement is in the best interests of the child.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

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***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 if the parent or other relative has been  
6 convicted under s. 940.01 of the first-degree intentional homicide, or under s. 940.05  
7 of the 2nd-degree intentional homicide, of a parent of the child, and the conviction  
8 has not been reversed, set aside or vacated, unless the judge determines by clear and  
9 convincing evidence that the placement would be in the best interests of the child.  
10 The judge shall consider the wishes of the child in making that determination.:

11           **SECTION 2.** 48.345 (3) (a) 1. and 2. of the statutes are created to read:

12           48.345 (3) (a) 1. The home of a parent or other relative of the child if the parent  
13 or other relative has been convicted under s. 940.01 of the first-degree intentional  
14 homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of  
15 the child, and the conviction has not been reversed, set aside, or vacated. In

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1 determining whether a placement under this subdivision is in the best interest of the  
2 child, the judge shall consider the wishes of the child.

3 2. The home of a relative other than the parent of a child if the judge finds that  
4 the relative has been convicted of a crime under ch. 948, has pled no contest to a crime  
5 under ch. 948, or has had a charge for a crime under ch. 948 dismissed or amended  
6 as a result of a plea agreement.

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

9 48.345 (3) (b) (intro.) The home of a person who is not required to be licensed  
10 if placement is for less than 30 days, except that the judge may not designate the  
11 home of a person who is not required to be licensed any of the following as the child's  
12 placement if the person has been convicted under s. 940.01 of the first-degree  
13 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of  
14 a parent of the child, and the conviction has not been reversed, set aside or vacated,  
15 unless the judge determines by clear and convincing evidence that the placement  
16 would be in the best interests of the child. ~~The judge shall consider the wishes of the~~  
17 ~~child in making that determination.;~~

18 **SECTION 4.** 48.345 (3) (b) 1. and 2. of the statutes are created to read:

19 48.345 (3) (b) 1. The home of a person who is not required to be licensed if the  
20 person has been convicted under s. 940.01 of the first-degree intentional homicide,  
21 or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child,  
22 and the conviction has not been reversed, set aside, or vacated. In determining  
23 whether a placement under this subdivision is in the best interest of the child, the  
24 judge shall consider the wishes of the child.

