

1 **AN ACT** *to create* 48.42 (5) of the statutes; **relating to:** false statements in the course
2 of a termination of parental rights proceeding and providing a penalty.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill draft was prepared for the joint legislative council's special committee on adoption and termination of parental rights (TPR) law.

The bill draft creates a penalty for making a false statement or representation of material fact in the course of a TPR proceeding with the intent to prevent a person who is entitled to receive notice of the TPR proceeding from receiving notice.

3 **SECTION 1.** 48.42 (5) of the statutes is created to read:

4 48.42 (5) **PENALTY.** Any person who knowingly and willfully makes or causes to be
5 made any false statement or representation of a material fact in the course of a proceeding
6 under this section with an intent to deceive or mislead the court for the purpose of preventing
7 a person who is entitled to receive notice of a proceeding under this section from receiving
8 notice may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both.

NOTE: This bill draft creates a penalty in the current statute relating to TPR procedure.

Under current law, a person may be convicted of perjury for orally making a false statement under oath or affirmation. Perjury is a Class H felony, punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both. In addition, a person who makes or subscribes to a false statement under oath or affirmation may be convicted of false swearing. False swearing is a Class H felony if the statement is required or authorized by law or required by a public officer or governmental agency as a prerequisite to official action. Otherwise, it is a Class A misdemeanor punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both. There is no general penalty for making a false statement if it is not made under oath or

affirmation, although some statutes contain penalties for making a false statement under specified conditions.

Under the bill draft, a person who knowingly and willfully makes or causes to be made a false statement or representation of material fact in the course of a TPR proceeding with an intent to deceive or mislead the court for the purpose of preventing a person who is entitled to receive notice of a TPR proceeding from receiving notice may be fined not more than \$10,000 or imprisoned for not more than 9 months, or both.

COMMENT: This penalty is the same as the penalty for making a false statement or representation in an application for a Wisconsin Works benefit or payment.