State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2972/2
GMM:kmg:rs

# 2003 BILL

AN ACT *to amend* 48.365 (1) and 938.365 (1) of the statutes; **relating to:** requiring the time that a child spends in respite care to be counted as time placed outside the home for purposes of triggering the requirement that a termination of parental rights petition be filed with respect to a child who has been placed outside the home for 15 of the most recent 22 months.

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***Analysis by the Legislative Reference Bureau***

Under current law, subject to certain exceptions, the Department of Health and Family Services (DHFS), a county department of human services or social services (county department), a child welfare agency, or the district attorney, corporation counsel, or other appropriate official designated by the county board to prosecute termination of parental rights (TPR) proceedings must file a TPR petition with respect to a child if the child has been placed outside of his or her home for 15 of the most recent 22 months. Current law specifies that a child is considered to have been placed outside of his or her home on the date on which the child was first removed from his or her home. A TPR petition is not required to be filed, however, if the child is being cared for by a relative, a TPR is not in the best interests of the child, or the agency primarily responsible for providing services to the child and the family has not provided the services necessary for the safe return of the child to the home.

This bill requires that all periods of time that a child spends in respite care be counted as time placed outside the home for purposes of triggering that TPR petition–filing requirement. The bill also specifies that a child is considered to have

been first removed from his or her home on the date of the court order or voluntary placement agreement that first removed the child from his or her home, including a court order or voluntary placement agreement under which the child is placed in respite care for the purpose of providing the child's parent or other caregiver with temporary relief from daily caregiver duties.

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:***

**SECTION 1.** 48.365 (1) of the statutes is amended to read:

48.365 **(1)** In this section, a child is considered to have been placed outside of his or her home on the date on which the child was first removed from his or her home. A child is considered to have been first removed from his or her home on the date of the court order or voluntary placement agreement that first removed the child from his or her home, including a court order or voluntary placement agreement under which the child is placed in respite care for the purpose of providing the child's parent or other caregiver with temporary relief from daily caregiver duties. For purposes of calculating the period for which a child has been placed outside of his or her home under sub. (2g) (b) 3. and ss. 48.38 (5) (c) 6. and 48.417 (1) (a), all periods that a child spends in respite care shall be counted as time placed outside the home.

**SECTION 2.** 938.365 (1) of the statutes is amended to read:

938.365 **(1)** In this section, a juvenile is considered to have been placed outside of his or her home on the date on which the juvenile was first removed from his or her home, except ~~that in~~ as provided in this subsection. A juvenile is considered to have been first removed from his or her home on the date of the court order or voluntary placement agreement that first removed the juvenile from his or her home, including a court order or voluntary placement agreement under which the juvenile

is placed in respite care for the purpose of providing the juvenile's parent or other caregiver with temporary relief from daily caregiver duties. In the case of a juvenile who on removal from his or her home was first placed in a secure detention facility, a secured correctional facility, a secured child caring institution, or a secured group home for 60 days or more and then moved to a nonsecured out–of–home placement, the juvenile is considered to have been placed outside of his or her home on the date on which the juvenile was moved to the nonsecured out–of–home placement. For purposes of calculating the period for which a juvenile has been placed outside of his or her home under sub. (2g) (b) 3. and s. 938.38 (5) (c) 6., all periods that a juvenile spends in respite care shall be counted as time placed outside the home.

**SECTION 3. Initial applicability.**

(1) RESPITE CARE COUNTED AS OUT–OF–HOME PLACEMENT. This act first applies to time spent in respite care by a child or juvenile on the effective date of this subsection.

**(END)**