

MS:kms;

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1 **AN ACT** *to create* 48.13 (14) of the statutes; **relating to:** children in need of protection
2 or services jurisdiction over a newborn whose parent had an involuntary termination
3 of parental rights within the last 3 years.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislation Council's Special Committee on Permanency for Young Children in the Child Welfare System.

Background on Current Law

Under current law, a court assigned to exercise jurisdiction under the Children's Code (juvenile court) has jurisdiction over a child who is alleged to be in need of protection or services. A juvenile court may issue an order to remove the child in need of protection or services (CHIPS) from the home and may order that services be provided if the child meets one of the following conditions:

- The child is without a parent or guardian.
- The child has been abandoned.
- A parent has relinquished custody of the child to a law enforcement officer, emergency medical technician, or hospital staff member without expressing intent to return for the child.
- The child has been the victim of abuse, including physical injury that was not accidentally inflicted; criminal sexual intercourse or sexual contact; sexual exploitation; permitting, allowing, or encouraging a child to engage in prostitution; causing a child to view or listen to sexual activity; causing a child to expose genitals or pubic area; or manufacture of methamphetamine in the child's home or in the child's presence. An injury may have been self-inflicted or inflicted by another.
- The child is at substantial risk of becoming the victim of abuse, based on reliable and credible information that another child in the home has been the victim of such abuse.

- A parent or guardian signs the petition requesting jurisdiction and is unable or needs assistance to care for or provide necessary special treatment or care for the child.
- The guardian is unable or needs assistance to care for or provide necessary special treatment or care for the child, but is unwilling or unable to sign the petition requesting jurisdiction.
- The child has been placed for care or adoption in violation of law.
- The child is receiving inadequate care during the period of time a parent is missing, incarcerated, hospitalized, or institutionalized.
- The child is at least age 12, has requested jurisdiction, and is in need of special treatment or care which the parent, guardian, or legal custodian is unwilling, neglecting, unable, or needs assistance to provide.
- A parent, guardian, or legal custodian neglects, refuses or is unable for reasons other than poverty to provide necessary care, food, clothing, medical, or dental care or shelter so as to seriously endanger the physical health of the child.
- A parent, guardian, or legal custodian is at substantial risk of neglecting, refusing, or being unable for reasons other than poverty to provide necessary care, food, clothing, medical, or dental care or shelter so as to endanger seriously the physical health of the child, based on reliable and credible information that the child's parent, guardian, or legal custodian has neglected, refused or been unable for reasons other than poverty to provide necessary care, food, clothing, medical, or dental care or shelter so as to endanger seriously the physical health of another child in the home.
- The child is suffering emotional damage for which the parent, guardian, or legal custodian has neglected, refused, or been unable and is neglecting, refusing or unable, for reasons other than poverty, to obtain necessary treatment or to take necessary steps to ameliorate the symptoms.
- The child is suffering from an alcohol and other drug abuse impairment, exhibited to a severe degree, for which the parent, guardian, or legal custodian is neglecting, refusing, or unable to provide treatment.
- The child has not been immunized as required by law, and the child is not exempt from the immunization requirement.

Also under current law, a petition for the involuntary termination of parental rights may be filed against a person, if within 3 years prior to the date of birth of the child a juvenile court had also ordered the termination of parental rights with respect to another child of the person.

The Bill Draft

The draft creates a new ground in which the juvenile court has jurisdiction over a child who is in need of protection or services. The draft allows the juvenile court to have jurisdiction over a child who is a newborn and whose parent had his or her parental rights involuntarily terminated with respect to another child within 3 years prior to the newborn child's date of birth.

SECTION 1. 48.13 (14) of the statutes is created to read:

48.13 **(14)** Who is less than [one year] [6 months] [3 months] of age and whose [custodial] parent, within 3 years prior to the date of birth of the child, had his or her parental rights to another child involuntarily terminated by a court.

NOTE: This SECTION creates a new ground in which the juvenile court has jurisdiction over a CHIPS. The ground gives jurisdiction over a child who is a newborn and whose parent has had his or her parental rights to another child involuntarily terminated within the last 3 years.

COMMENT: The age of the child should be specified. Should the age of the child be less than 3 months, 6 months, or 12 months?

Also, this SECTION could apply only to cases in which the **custodial** parent has had his or her rights to another child terminated in order to prevent a CHIPS petition from being filed in cases where only the non-custodial parent had his or her parental rights to another child. Is this the committee's intent?

SECTION 2. Initial applicability.

(1) This act first applies to a petition filed under s. 48.13, on the effective date of this subsection.

NOTE: This SECTION specifies that the new ground created under SECTION 1 of this draft only applies to new CHIPS petitions that are filed under s. 48.13, stats., on the effective date of this draft.

(END)