

1 **AN ACT** *to amend* 48.977 (2) (a) and (4) (b) 3.; and *to create* 48.13 (14) and 48.415
2 (11) of the statutes; **relating to:** children in need of protection or services jurisdiction
3 over a child born with the presence of alcohol, a controlled substance, or a controlled
4 substance analog in the child's blood, breath, urine, or meconium.

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 Permanency for Young Children in the Child Welfare System.

This draft creates a new ground for which a court assigned to exercise jurisdiction under the Children's Code (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 was born with alcohol, a controlled substance, or controlled substance analog in his or her blood, breath, urine, or meconium. The draft creates an exception for instances where the presence of a controlled substance or controlled substance analog was the result of a medical treatment administered to the child or mother and the medical treatment is unrelated to the mother knowingly using a controlled substance or controlled substance analog while pregnant with the child.

This draft also creates a new ground for filing an involuntary termination of parental rights (TPR) petition if both of the following apply: (1) the child was found to be in need of protection or services because he or she was born with a detectable amount of alcohol, a controlled substance, or a controlled substance analog and the presence of the controlled substance or controlled substance analog was not the result of medical treatment as described above; and (2) the juvenile court has adjudged 2 or more other children of the child's mother to be in need of protection or services because they were also born with a detectable amount of alcohol, a controlled substance, or a controlled substance analog and the presence of the controlled substance or controlled substance analog was not the result of medical treatment.

Lastly, the draft specifies that a juvenile court may appoint a guardian for a child found to be in need of protection or services as a result of being

born with any amount of alcohol, a controlled substance, or a controlled substance analog.

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

2 48.13 **(14)** Who was born with a detectable amount of alcohol, a controlled substance,
3 or a controlled substance analog in the child's blood, breath, urine, or meconium [unless the
4 presence of a controlled substance or controlled substance analog in the child is a result of
5 medical treatment administered to the child or mother and the medical treatment is unrelated
6 to the mother knowingly using a controlled substance or controlled substance analog while
7 pregnant with the child].

NOTE: This SECTION creates a new ground for which a juvenile court has jurisdiction over a child in need of protection or services. This ground gives jurisdiction over a child who was born with a detectable amount of alcohol, a controlled substance, or a controlled substance analog in his or her blood, breath, urine, or meconium, with one exception. This ground excludes instances where the controlled substance or controlled substance analog is present in the child because the child or mother received medical treatment, which is unrelated to the mothers use of it while pregnant with the child.

COMMENT: Is it the intent of the committee to exclude the presence of a controlled substance or controlled substance analog from this child in need of protection or services (CHIPS) ground?

8 **SECTION 2.** 48.415 (11) of the statutes is created to read:

9 48.415 **(11)** CHILD BORN WITH ALCOHOL, CONTROLLED SUBSTANCES, OR CONTROLLED
10 SUBSTANCE ANALOGS. A child born with any amount of alcohol, a controlled substance, or a
11 controlled substance analog, which shall be established by proving all of the following:

12 (a) That the child who is the subject of the petition has been adjudged to be in need of
13 protection or services under s. 48.13 (14).

14 (b) That the court has adjudged 2 or more other children of the person to be in need of
15 protection or services as specified in par. (a).

NOTE: This SECTION creates a ground for involuntarily TPR of a mother if both of the following apply: (1) the child was adjudged to be in need of protection or services because of the ground for filing a CHIPS petition that is created in SECTION 1; and (2) the court has adjudged 2 or more children of the mother to be in need of protection or services under the same CHIPS ground.

SECTION 3. 48.977 (2) (a) and (4) (b) 3. of the statutes are amended to read:

48.977 (2) (a) That the child has been adjudged to be in need of protection or services under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), ~~or (11m), or (14)~~ or 938.13 (4) and been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or that the child has been so adjudged and placement of the child in the home of a guardian under this section has been recommended under s. 48.33 (1) or 938.33 (1).

(4) (b) 3. The date on which the child was adjudged in need of protection or services under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), ~~or (11m),~~ or (14) or 938.13 (4) and the dates on which the child has been placed, or continued in a placement, outside of his or her home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child has been so adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1) in which placement of the child in the home of the person is recommended.

NOTE: SECTION 3 allows the juvenile court to appoint a guardian for a child who was found to be in need of protection or services under the new ground created under SECTION 1.

SECTION 4. Initial applicability.

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

(END)