

LEGISLATIVE UPDATE

Select Child Welfare and Youth Justice Legislation
2023-2024 Legislative Session

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LEGISLATION – ENACTED

ACT 119 – “LIKE-KIN” PERSONS

- Allows a child/juvenile to be placed with a person who is like-kin in a Ch. 48 or Ch. 938 proceeding
 - At all stages in the case
- Provides kinship care payments to like-kin
- Effective July 1, 2025 unless DCF chooses earlier date

ACT 118—PREADOPTION TRAINING

- Amends the current law requirements on preadoption preparation training to required by a proposed adoptive parent
- A proposed adoptive parent must obtain at least 25 hours of preadoption preparation training. At least six of these hours must include training that is appropriate to the specific needs of the child
 - Under prior law, at least six of these hours must have been provided in person, either individually or in a group
 - Act 118 allows the proposed adoptive parent to complete the required six hours of in-person training either in person or through a live videoconference session.
- Effective March 16, 2024

ACT 119– DEFINITION OF LIKE-KIN

A person who has a significant emotional relationship with a child or the child's family and to whom any of the following applies:

- a. Prior to the child's placement in out-of-home care, the person had an existing relationship with the child or the child's family that is similar to a familial relationship
- b. During the child's placement in out-of-home care, the person developed a relationship with the child or the child's family that is similar to a familial relationship, and the person is not and has not previously been the child's licensed foster parent
- c. For an Indian child, "like-kin" includes individuals identified by the tribe according to tribal tradition, custom or resolution, code, or law

ACT 238 – HUMAN TRAFFICKING TESTIMONY

- In a criminal prosecution for a human trafficking crime, the testimony of a child witness who is under 18 years of age may be taken in a room other than the courtroom and simultaneously televised in the courtroom
- If the court finds both of the following:
 - The presence of the defendant during the taking of the child's testimony will result in the child suffering serious emotional distress such that the child cannot reasonably communicate
 - Taking the testimony of the child in a room other than the courtroom and simultaneously televising the testimony in the courtroom by means of closed-circuit audiovisual equipment is necessary to minimize the trauma to the child of testifying in the courtroom setting and to provide a setting more amenable to securing the child witness's uninhibited, truthful testimony
- Effective March 29, 2024

LEGISLATION – VETOED

SB 836 – JUVENILE CONDUCT PRIOR TO DISPOSITION

- Grants the juvenile court the ability to impose reasonable restrictions on a juvenile's conduct during the time between the plea hearing and the conclusion of any fact-finding hearing or any disposition hearing
 - Includes travel, association with other persons, alcohol or drug use, and school attendance
- An order restricting a juvenile's conduct may be entered after the juvenile submits a denial at a plea hearing
- Senate passed (2/13/24); Assembly passed (2/22/24)
- Vetoed (3/29/24)

AB 510—RIGHTS RESERVED TO A PARENT

- Codifies a number of parental rights relating to a child's religion, medical care and records, and education, and creates a cause of action for the violation of these rights
- All rights extend to a guardian of the child, unless a court limits the guardian's rights in granting the guardianship
- Status: introduced and referred to committees; hearing held by Assembly Committee on Family Law; passed Assembly (1/18/24); Passed Senate (2/13/24)
- Vetoed (3/29/24)

LEGISLATION – FAILED TO PASS

SB 524 & AB 560—USE OF VIDEOCONFERENCING IN CIVIL ACTIONS

- Court would no longer be required to sustain an objection by respondent to the use of videoconferencing for a witness at trial or dispositional hearing in a Chs. 48, 51, 55, 938, or 980
 - Court is to exercise discretion in determining use of videoconferencing using criteria set forth in § 885.56
 - Court still required to sustain an objection made by criminal defendant
- Not clear if would also apply to respondent's/parent's objection to appear in person
- Status: hearing held by Senate Committee on Judiciary and Public Safety (11/2/23); passed the Assembly

AB 1084 & SB 987—JUVENILE IN CUSTODY

- An intake worker must review the need to hold the juvenile in custody, make a recommendation to a judge, and request an order from that judge regarding whether or not to hold the juvenile in custody (Ch. 938 Proceedings)
- The judge must issue a signed order stating whether the intake worker must hold or release the juvenile based on the same probable cause criteria as under current law
- If the judge orders the juvenile to be released, the intake worker still determines to whom the juvenile is released
- If the judge orders the juvenile to be held in custody, the juvenile court still holds a hearing on whether to continue holding the juvenile in custody within 24 hours after the end of the day on which the judge issues this order
- Status: referred to committees

AB 1052 & SB 949—HUMAN TRAFFICKING COURTROOM SUPPORTS

- Child victims or witnesses of human trafficking crimes must be provided any courtroom supports that the court finds necessary to support the health, safety, or liberty of the child and determines are in the interest of justice.
- In any criminal proceeding for a human trafficking violation or civil action for injury due to human trafficking, a child victim's or child witness's identifying information must be sealed
 - May not be disclosed to the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, and liberty of the child and determines that the disclosure is in the interest of justice.
- Status: referred to committees; Senate Judiciary and Public Safety public hearing (2/21/24, executive session recommended for passage (2/27/24).

SB 375 & AB 376 SUBSTITUTE AMENDMENT—CHILD SUPPORT

- Creates a requirement to file a TPR petition if a parent has been found guilty of certain sexual assault law violations and a court has found that the child was conceived as a result of that sexual assault
- Creates a post-TPR obligation to provide child support payments if so ordered
 - Post-TPR child support obligation is not severed by adoption
 - Parent whose parental rights were terminated and who is ordered to make child support payments may not seek a modification of the child support order
 - Child support obligation under the bill must be double the amount of support determined by the court
- Individual is considered to have good cause for refusing to cooperate with an effort to obtain post-TPR child support payments under the bill for the purposes of receiving a child care subsidy for child care services under Wisconsin Shares
- Status: introduced and referred to committees; hearing held by Assembly Committee on Children and Families (11/1/23); hearing held by Senate Committee on Mental Health, Substance Abuse Prevention, Children & Families (2/1/24)

SB 15 & AB 13—ACCESS TO ADOPTEE BIRTH RECORDS

- Allows adoptee access to an uncertified copy of the impounded birth record upon request once the adoptee is 18 years of age
 - Eliminates need for either a court order or an affidavit from birth parents authorizing access
- Status: introduced and referred to committees

SB 55 & AB 48—CHARGING A MINOR WITH AN ACT OF PROSTITUTION

- Eliminates the ability to charge an individual under the age of 18 with prostitution (a/k/a Safe Harbor)
 - Applies to both juvenile and criminal court
- Status: introduced and referred to committees; hearing held by Assembly Committee on Criminal Justice and Public Safety (6/1/23)

SB 80 & AB 107—DISCLAIMER OF PARENTAL RIGHTS

- Provides method for mother, father, or alleged/presumed father to consent to TPR in writing (vs. appearing in court)
 - Child under 1 year old only
 - Cannot be an Indian child
- Father, alleged father, or presumed father may consent to TPR prior to the birth of the child
- Revocable later of 72 hours after execution or 120 hours after birth
- Allows payments to be made to a licensed out-of-state private child placing agency for services provided in connection with an adoption
- Status: introduced and referred to committees; hearing held by Senate Committee on Family Law (9/21/23)

SB 128 & AB 104—EXPANDING CASA PROGRAM

- Increases funding to CASA program by \$6.8 million in the 2023-2024 fiscal biennium to expand existing program
 - Two new county programs in 2023
 - Two new county programs in 2024
- Status: introduced and referred to committees; hearing held by Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families (5/3/23)

SB 81 & AB 83—PERMANENCY PLANNING

- Allows agency to provide copy of a child's/juvenile's permanency plan and comments on the plan to the out-of-home care provider in the context of a permanency review and a permanency hearing
 - Agency not required to provide this information
- Information required to remain confidential under federal or state law must be redacted
- Status: introduced and referred to committees

AB 970 & SB 945—HUMAN TRAFFICKING SEX OFFENDER REGISTRATION

- Adds keeping a place of prostitution to the list of sex offenses for which a person must register as a sex offender
- Status: passed Assembly (2/13/24); public hearing Senate Judiciary and Public Safety (2/21/24)

AB 974 & SB 946—HUMAN TRAFFICKING CIVIL ACTION

- A victim of child trafficking may bring a civil action regardless of whether anyone was prosecuted or convicted for the child trafficking violation
- The victim may commence the civil action any time before he or she reaches the age of 35
- Status: passed the Assembly (2/15/24)

LEGISLATIVE STUDY COMMITTEES

LEGISLATIVE STUDY COMMITTEE ON EMERGENCY DETENTION AND CIVIL COMMITMENT OF MINORS

- Study the appropriateness of current emergency detention and civil commitment laws as applied to minors
- Whether special emergency detention procedures should be established for minors, including whether persons other than law enforcement either be permitted or required to take a minor into custody for the purpose of emergency detention
- Review current civil commitment placement options for minors, with an emphasis on examining the appropriateness of placements outside Wisconsin and feasibility of creating psychiatric residential treatment facilities for minors in Wisconsin
- Recommend legislation that creates child-appropriate emergency detention and civil commitment procedures and maximizes civil commitment placement options for minors in Wisconsin

LEGISLATIVE STUDY COMMITTEE ON RECODIFICATION OF BATTERY STATUTES

- Conduct a recodification of ss. 940.19 to 940.208, Stats., relating to the crime of battery
- Reorganizing the sections in a logical manner
- Renumbering and retitling sections
- Consolidating related provisions
- Modernizing language
- Resolving ambiguities in language
- Making other necessary organizational changes
- Making minor substantive changes.