



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRBs0026/1  
EHS:kjf&amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 113**

April 17, 2017 - Offered by Representative MURSAU.

1     **AN ACT to renumber** 48.195 (6); **to renumber and amend** 48.195 (3) (a); **to**  
2     **amend** 48.195 (2) (a), 48.195 (3) (title), 48.195 (3) (b) and 48.195 (4) (a); and **to**  
3     **create** 48.195 (2) (d) 8., 48.195 (2) (e), 48.195 (3) (a) 2. to 8., 48.195 (3) (am) and  
4     48.195 (6) (b) of the statutes; **relating to:** the collection and sharing of  
5     information regarding an Indian child relinquished under the safe haven law.

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

This substitute amendment makes various changes to the information that is collected and shared when a child under the age of 72 hours is relinquished under the safe haven law.

Under current law, a parent of a child under the age of 72 hours may anonymously relinquish the child to a law enforcement officer, an emergency medical technician, or a hospital staff member (commonly referred to as the “safe haven law”). The person who takes custody of the child must deliver the child to the intake worker of the court assigned to exercise jurisdiction under the Children’s Code (juvenile court), who must place the child in temporary physical custody pending the commencement of child in need of protection or services proceedings in the juvenile court. The parent and the person who takes the child into custody are immune from civil and criminal liability for any good faith act or omission related to the relinquishment.

Under current law, no one may pursue or attempt to locate or ascertain the identity of a parent who has relinquished a child under the safe haven law. The two exceptions to this prohibition are in cases in which there is reasonable cause to believe that the child has been the victim of abuse or neglect or that the parent was coerced into relinquishing the child. In addition, with certain exceptions, a person who obtains any information relating to the relinquishment of a child is required to keep that information confidential.

This substitute amendment makes the following changes to the safe haven law:

1. Requires a person who takes custody of a relinquished child to make a reasonable effort to do all of the following:

a. Provide the relinquishing parent with a brochure, prepared by the Department of Children and Families, that includes a statement of the parent's right to remain anonymous, the steps to take if the parent changes his or her mind about relinquishment, an explanation of the importance of knowing the child's social and health history, an explanation of the importance to an Indian child of maintaining a social and cultural connection to his or her tribe, and a form on which to provide the name, address, telephone number, and any other identifying information of each parent and any person assisting a parent in the relinquishment, information on the ethnicity and race of the child, information regarding any tribal affiliation for the child, and information regarding the social and health history of the child and of each parent.

b. Solicit certain information from the parent regarding the child's social and health history and any tribal affiliation of the child.

c. If the parent declines to provide the information solicited, encourage the parent to submit the information to the county or, in Milwaukee County, to DCF at a later date.

2. Authorizes a person who has information regarding a relinquished child whom the person has reason to believe is an Indian child to release that information to the tribal agent of the Indian child's tribe.

3. Requires a person who obtains information relating to the tribal affiliation of a relinquished child to promptly transmit the information to the county department in the county where the child was relinquished or, if the child was relinquished in Milwaukee County, to DCF, and requires DCF or a county department that obtains information relating to the tribal affiliation of a relinquished child to promptly transmit the information to the tribal agent of the child's tribe.

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

1           **SECTION 1.** 48.195 (2) (a) of the statutes is amended to read:

2           48.195 (2) (a) Except as provided in this paragraph, a parent who relinquishes  
3 custody of a child under sub. (1) and any person who assists the parent in that

1 relinquishment have the right to remain anonymous. The exercise of that right shall  
2 not affect the manner in which a law enforcement officer, emergency medical  
3 technician, or hospital staff member performs his or her duties under this section.  
4 No person may induce or coerce or attempt to induce or coerce or, except as provided  
5 under sub. (3) (am), induce or attempt to induce a parent or person assisting a parent  
6 who wishes to remain anonymous into revealing his or her identity, unless the person  
7 has reasonable cause to suspect that the child has been the victim of abuse or neglect  
8 or that the person assisting the parent is coercing the parent into relinquishing  
9 custody of the child.

10 **SECTION 2.** 48.195 (2) (d) 8. of the statutes is created to read:

11 48.195 (2) (d) 8. In the case of a child who the person has reason to believe is  
12 an Indian child, the tribal agent, as defined in s. 48.981 (1) (i), of the Indian child's  
13 tribe.

14 **SECTION 3.** 48.195 (2) (e) of the statutes is created to read:

15 48.195 (2) (e) Notwithstanding par. (d), a person who obtains information  
16 relating to the tribal affiliation of a child relinquished under sub. (1) shall promptly  
17 transmit the information to the county department in the county where the child was  
18 relinquished or, if the child was relinquished in a county having a population of  
19 750,000 or more, to the department. The department or a county department that  
20 obtains information relating to the tribal affiliation of a child relinquished under  
21 sub. (1) shall promptly transmit the information to the tribal agent, as defined in s.  
22 48.981 (1) (i), of the Indian child's tribe.

23 **SECTION 4.** 48.195 (3) (title) of the statutes is amended to read:

24 48.195 (3) (title) INFORMATION FOR PARENT; INFORMATION REGARDING CHILD.

1           **SECTION 5.** 48.195 (3) (a) of the statutes is renumbered 48.195 (3) (a) (intro.)  
2 and amended to read:

3           48.195 **(3)** (a) (intro.) Subject to par. (b), a law enforcement officer, emergency  
4 medical technician, or hospital staff member who takes a child into custody under  
5 sub. (1) shall make available to the parent who relinquishes custody of the child ~~the~~  
6 and any person present with the parent during relinquishment a brochure that  
7 includes all of the following:

8           1. The maternal and child health toll-free telephone number maintained by the  
9 department under 42 USC 705 (a) (5) (E).

10           **SECTION 6.** 48.195 (3) (a) 2. to 8. of the statutes are created to read:

11           48.195 **(3)** (a) 2. A statement advising the parent of all of the following:

12           a. That the parent has a right to remain anonymous.

13           b. That the provision of any identifying information is voluntary on the part of  
14 the parent and the choice to not provide that information will not affect the parent's  
15 ability to relinquish the child.

16           c. That any identifying information provided by the parent will be treated as  
17 confidential.

18           3. An explanation of the steps the parent is required to take if the parent  
19 changes his or her mind about relinquishing the child.

20           4. An explanation of the importance to the future well-being of a child of  
21 knowing information regarding the child's social and health history.

22           5. An explanation of the importance to an Indian child of maintaining a social  
23 and cultural connection to the Indian child's tribe and clan and the potential benefits  
24 of tribal enrollment.

25           6. A form on which to provide all of the following information:

1 a. The name, address, telephone number, and any other identifying  
2 information of each parent and any person assisting a parent in the relinquishment.

3 b. Information on the ethnicity and race of the child.

4 c. Information regarding any tribal affiliation of the child, including the  
5 identity, tribal affiliation, and birth dates of the child's parents and grandparents.

6 d. Information regarding the social and health history of the child and of each  
7 parent.

8 7. A postage-paid envelope addressed to the county department of the county  
9 in which the relinquishment occurs or, if the relinquishment occurs in a county  
10 having a population of 750,000 or more, the department and instructions to use the  
11 envelope to return the completed forms.

12 **SECTION 7.** 48.195 (3) (am) of the statutes is created to read:

13 48.195 (3) (am) Subject to par. (b), a law enforcement officer, emergency  
14 medical technician, or hospital staff member who takes a child into custody under  
15 sub. (1) shall, at the time of taking custody of the child, make a reasonable effort to  
16 do all of the following:

17 1. Review the information provided under par. (a) with, or play a video  
18 recording of that information for, the parent who relinquishes custody of the child,  
19 including the explanation required under par. (a) 4.

20 2. Read aloud or play a video recording of the explanation under par. (a) 5. for  
21 the parent who relinquishes custody of the child.

22 3. Assist the parent in completing the form described in par. (a) 6. and in  
23 returning the completed form to the county department of the county in which the  
24 relinquishment occurs or, if the relinquishment occurs in a county having a  
25 population of 750,000 or more, the department.

1           4. If the parent declines to review the materials under subd. 1. or to complete  
2 the form under subd. 3., encourage the parent to take the materials, to review them  
3 at a later time, and to return the completed form in the return envelope.

4           **SECTION 8.** 48.195 (3) (b) of the statutes is amended to read:

5           48.195 (3) (b) The ~~decision~~ decisions whether to accept the information made  
6 available under par. (a) ~~is, to engage in the review of that information under par. (am)~~  
7 1., and to provide that information under par. (am) 3. or 4. are entirely voluntary on  
8 the part of the parent. No person may ~~induce or coerce or attempt to induce or coerce~~  
9 or, except as provided in par. (am), induce or attempt to induce any parent into  
10 accepting that the information made available under par. (a), engaging in the review  
11 under par. (am) 1., or providing the information under par. (am) 3. or 4.

12           **SECTION 9.** 48.195 (4) (a) of the statutes is amended to read:

13           48.195 (4) (a) Any parent who relinquishes custody of his or her child under  
14 sub. (1) and any person who assists the parent in that relinquishment are immune  
15 from any civil or criminal liability for any good faith act or omission in connection  
16 with that relinquishment. The immunity granted under this paragraph includes  
17 immunity for exercising the right to remain anonymous under sub. (2) (a), the right  
18 to leave at any time under sub. (2) (b), ~~and the right not to accept any information~~  
19 under sub. (3) (b), the right not to engage in the review under sub. (3) (am) 1., and  
20 the right not to complete the form under sub. (3) (am) 3. and immunity from  
21 prosecution under s. 948.20 for abandonment of a child or under s. 948.21 for  
22 neglecting a child.

23           **SECTION 10.** 48.195 (6) of the statutes is renumbered 48.195 (6) (a).

24           **SECTION 11.** 48.195 (6) (b) of the statutes is created to read:

