



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2013 Wisconsin Act 337**  
[2013 Senate Bill 504]

**Waiver of Right to Counsel  
by an Adult Parent**

2013 Wisconsin Act 337 relates to waiver of a parent's right to counsel in a contested adoption or an involuntary termination of parental rights proceeding for failure to personally appear as ordered by the juvenile court.

### **PRIOR LAW**

Under Wisconsin law, a parent in a proceeding involving an involuntary termination of parental rights, or a contested adoption, must be represented by counsel. The Wisconsin Supreme Court has held that this right to counsel is not conditional on a parent's appearance in person in the proceedings, and the statutory requirement for counsel therefore prevents a court from discharging an attorney for the parent regardless of whether the parent failed to personally attend a hearing in contravention of a court order. [*State v. Shirley E.*, 2006 WI 129.]

### **2013 WISCONSIN ACT 337**

Act 337 provides that a court may discharge counsel if a person has a right to counsel under the Children's Code, and the person has waived that right.

The Act specifies that a parent 18 years of age or over in a proceeding for an involuntary termination of parental rights, or a contested adoption, is presumed to have waived the right to counsel if: (1) the adult parent had been ordered to appear in person for any or all hearings; (2) the adult parent failed to appear; and (3) the failure to appear was egregious and without clear and justifiable excuse. Failure to appear as ordered at consecutive hearings is presumed to be egregious and without clear and justifiable excuse.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

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The Act requires that at least two days must pass from a court's finding that an adult parent has waived the right to counsel by a failure to appear before a court may hold a dispositional hearing on an involuntary termination of parental rights or a contested adoption.

The Act specifies that, if the right to counsel was waived in a proceeding for an involuntary termination of parental rights, the right to counsel is reinstated in a proceeding to vacate or reconsider a default judgment that granted the involuntary termination of parental rights. In the proceeding to vacate or reconsider the judgment, the reinstatement may again be waived.

*Effective date:* 2013 Wisconsin Act 337 is effective April 25, 2014. In a proceeding for an involuntary termination of parental rights, or a contested adoption, the Act applies to a parent who is ordered on or after that date to appear at a hearing.

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