



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0660/1
EAW:cjs&ahe

2019 ASSEMBLY BILL 95

March 22, 2019 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Family Law.

1 **AN ACT** *to amend* 767.461; and *to create* 767.34 (3), 767.41 (5m) and 767.451
2 (3r) of the statutes; **relating to:** modifications to legal custody or physical
3 placement contingent upon a future event.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Study Committee on Child Placement and Support.

Under current law, a court cannot modify an order for legal custody or physical placement that would substantially alter a child's time with each parent within two years of the final judgment, unless custodial conditions are physically or emotionally harmful to the best interests of the child. After the first two years, a court may modify an order for legal custody or physical placement if: (1) there has been a substantial change in circumstances; and (2) the court has determined that the modification is in the best interests of the child. A court must presume that maintaining the status quo allocation of decision-making and physical placement is in the child's best interests, unless rebutted by the parent seeking the modification.

This bill authorizes a court to approve a stipulated agreement between the parties for modifications to legal custody or physical placement upon the occurrence of life events

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of the adult parties or child, or developmental and educational needs of the child, that are reasonably certain to occur within two years of the date of the stipulation. The bill authorizes the court to approve such a stipulation if it is filed in an action initially determining, modifying, or revising a legal custody and physical placement order. The bill prohibits stipulated agreements between the parties that are based on anticipated behavior modifications by a party.

1 **SECTION 1.** 767.34 (3) of the statutes is created to read:

2 **767.34 (3)** APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
3 EVENT. (a) In this subsection, “future event” means a life event of a party or of the
4 child or a change in the developmental or educational needs of the child.

5 (b) A court may approve a stipulation for legal custody and physical placement
6 that includes modifications to legal custody or physical placement upon the
7 occurrence of a specified future event that is reasonably certain to occur within 2
8 years of the date of the stipulation. A court may not approve a stipulation under this
9 subsection that is based on an anticipated behavior modification of a party.

10 **SECTION 2.** 767.41 (5m) of the statutes is created to read:

11 **767.41 (5m)** APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
12 EVENT. In making an order of legal custody under sub. (2) or (3) or physical placement
13 under sub. (4), the court may approve a stipulation for modifications to legal custody
14 or physical placement upon the occurrence of a specified future event, as defined
15 under s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the date
16 of the stipulation and incorporate the terms of the stipulation into the order. The
17 court may not approve a stipulation under this subsection that is based on an
18 anticipated behavior modification of a party.

19 **SECTION 3.** 767.451 (3r) of the statutes is created to read:

20 **767.451 (3r)** APPROVAL OF STIPULATION FOR MODIFICATIONS CONTINGENT ON FUTURE
21 EVENT. Notwithstanding sub. (1), in an action to modify a legal custody or physical
22 placement order, the court may approve a stipulation for further modifications to

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1 legal custody or physical placement upon the occurrence of a specified future event,
2 as defined under s. 767.34 (3) (a), that is reasonably certain to occur within 2 years
3 of the date of the stipulation and incorporate the terms of the stipulation into any
4 revised legal custody or physical placement order granted by the court. The court
5 may not approve a stipulation under this subsection that is based on an anticipated
6 behavior modification of a party.

7 **SECTION 4.** 767.461 of the statutes is amended to read:

8 **767.461 Revisions agreed to by stipulation.** If after an initial order is
9 entered under s. 767.41 the parties agree to a modification in an order of physical
10 placement or legal custody and file a stipulation with the court that specifies the
11 agreed upon modification, including a modification to physical placement or legal
12 custody upon the occurrence of a specified future event, as defined under s. 767.34
13 (3) (a), that is reasonably certain to occur within 2 years of the date of the stipulation,
14 the court shall incorporate the terms of the stipulation into a revised order of physical
15 placement or legal custody unless the court finds that the modification is not in the
16 best interest of the child. The court may not incorporate the terms of a stipulation
17 that is based on an anticipated behavior modification of a party.

18 **SECTION 5. Initial applicability.**

19 (1) The treatment of s. 767.34 (3), 767.41 (5m), and 767.451 (3r) first applies
20 to actions or proceedings, including actions or proceedings to modify a judgment or
21 order previously granted, that are commenced on the effective date of this
22 subsection.

23 (2) The treatment of s. 767.461 first applies to stipulations filed with the court
24 on the effective date of this subsection.

25

(END)