



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4411/2
EHS&EAW:cdc

2019 SENATE BILL 634

December 19, 2019 - Introduced by Senators JACQUE and NASS, cosponsored by Representatives BRANDTJEN, SINICKI and THIESFELDT. Referred to Committee on Universities, Technical Colleges, Children and Families.

1 **AN ACT** *to renumber and amend* 48.42 (2m) (a); and *to create* 48.42 (2m) (a)
2 1. c. of the statutes; **relating to:** the exception to the requirement to give notice
3 of a termination of parental rights proceeding to an alleged father based on
4 sexual assault.

Analysis by the Legislative Reference Bureau

Current law requires that notice of a termination of parental rights proceeding be given to certain persons, including to a person who is or may be the father of the child. Notice is not required to be given to a person who may be the father of a child conceived as a result of a sexual assault, as evidenced by a physician who attests that he or she believes that such a sexual assault occurred or by the father's conviction for a sexual assault that may have led to the child's conception. This bill adds that this exception to the notice requirement also applies if the court determines that the person is the father of the child as a result of sexual assault based upon an allegation and evidence presented by the birth mother.

The bill also removes a provision under current law that the notice exception does not apply to a person who may be the father of a child conceived as a result of first or second degree sexual assault of a child if he was under 18 years of age at the time of the sexual assault. Under current law, a person who has not attained the age of 19 and has sexual intercourse with a child who is at least 15 years old is guilty of underage sexual activity. Under the bill, the notice exception does not apply to a

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person who may be the father of a child conceived as a result of a third degree sexual assault, if that sexual assault constituted underage sexual activity

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

1 **SECTION 1.** 48.42 (2m) (a) of the statutes is renumbered 48.42 (2m) (a) 1. (intro.)
2 and amended to read:

3 48.42 **(2m)** (a) 1. (intro.) ~~Except as provided in this paragraph, notice~~ Notice
4 is not required to be given to a person who may be the father of a child conceived as
5 a result of a sexual assault in violation of s. 940.225 (1), (2) or (3), 948.02 (1) or (2),
6 948.025, or 948.085 if ~~a- any of the following apply:~~

7 a. A physician attests to his or her belief that a sexual assault as specified in
8 this paragraph has occurred ~~or if the.~~

9 b. ~~The~~ person who may be the father of the child has been convicted of sexual
10 assault as specified in this paragraph subdivision for conduct which may have led
11 to the child's conception.

12 2. A person who under this paragraph subdivision is not given notice does not
13 have standing to appear and contest a petition for the termination of his parental
14 rights, present evidence relevant to the issue of disposition, or make alternative
15 dispositional recommendations. ~~This paragraph~~

16 3. Subdivision 1. does not apply to a person who may be the father of a child
17 conceived as a result of a sexual assault in violation of s. ~~948.02 (1) or (2) if that person~~
18 ~~was under 18 years of age at the time of the sexual assault~~ 940.225 (3) if s. 948.093
19 applies.

20 **SECTION 2.** 48.42 (2m) (a) 1. c. of the statutes is created to read:

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1 48.42 **(2m)** (a) 1. c. The court determines that notice to a person who may be
2 the father of the child is not required, based upon an allegation and evidence
3 presented by the birth mother that the person is the father as a result of sexual
4 assault as specified in this paragraph.

5

(END)