

State of Misconsin 2021 - 2022 LEGISLATURE

LRB-1617/1 EAW:amn&wlj

2021 ASSEMBLY BILL 113

February 18, 2021 – Introduced by Representatives J. RODRIGUEZ, BROOKS, ARMSTRONG, BILLINGS, BRANDTJEN, DITTRICH, DOYLE, DUCHOW, EDMING, JAMES, KITCHENS, MAGNAFICI, MOSES, MURPHY, MURSAU, OLDENBURG, ROZAR, SPIROS, STEFFEN, TUSLER and SKOWRONSKI, cosponsored by Senators BALLWEG, DARLING, JACQUE, STROEBEL, WANGGAARD and JOHNSON. Referred to Committee on Family Law.

1 AN ACT to renumber and amend 767.461; and to create 767.34 (3), 767.41 2 (5m), 767.451 (3r) and 767.461 (1) to (4) of the statutes; relating to: 3 modifications to legal custody or physical placement contingent upon a future

4 event.

Analysis by the Legislative Reference Bureau

Under current law, a court cannot modify an order for legal custody or physical placement of a child that would substantially alter the 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.

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

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behavior modifications by a party, such as completion of an anger management course, drug or alcohol therapy, or a term of imprisonment, parole, or probation.

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

- 1 **SECTION 1.** 767.34 (3) of the statutes is created to read: $\mathbf{2}$ 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 occurrence of a specified future event that is reasonably certain to occur within 2 7 8 vears 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 12EVENT. In making an order of legal custody under sub. (2) or (3) or physical placement 13under 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 in 15s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the date of the 16 stipulation and incorporate the terms of the stipulation into the order. The court may 17not approve a stipulation under this subsection that is based on an anticipated 18 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

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

8 SECTION 4. 767.461 of the statutes is renumbered 767.461 (intro.) and amended 9 to read:

10 767.461 Revisions agreed to by stipulation. (intro.) If after an initial order 11 is entered under s. 767.41 the parties agree to a modification in an order of physical 12placement or legal custody and file a stipulation with the court that specifies the agreed upon modification, including a modification to physical placement or legal 13custody upon the occurrence of a specified future event, as defined in s. 767.34 (3) (a), 14 15that is reasonably certain to occur within 2 years of the date of the stipulation, the 16 court shall incorporate the terms of the stipulation into a revised order of physical 17placement or legal custody unless the court finds that the modification is not in the 18 best interest of the child. The court may not incorporate the terms of a stipulation 19 that is based on an anticipated behavior modification of a party, including for the 20 completion of any of the following: 21**SECTION 5.** 767.461 (1) to (4) of the statutes are created to read: 22 767.461 (1) An anger management course or therapy. 23(2) A batterers intervention program.

24 (3) A drug or alcohol treatment or therapy.

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1	(4) A term of incarceration, extended supervision, parole or probation for a
2	violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19,
3	940.195, 940.20, 940.201 (2), 940.203 (2), 940.225 (1), (2), or (3), 940.23, 940.235,
4	940.24 (1), 940.30, 940.302 (2), 940.305, 940.31, 940.32 (2), (2e), or (2m), 940.42,
5	940.43, 940.44, 940.45, 941.20, 941.29, 941.30, 941.39, 943.011 (2), 947.012, 947.013,
6	948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.055, 948.06, 948.07,
7	948.08, 948.085, 948.095, 948.30, 948.55, or 951.02 or any felony to which the penalty
8	enhancer under s. 939.621 could be imposed, for a violation of a 72-hour no contact
9	order under s. 968.075 (5), for a violation of a domestic abuse restraining order, child
10	abuse restraining order, or harassment restraining order, or for a violation to which
11	a penalty enhancer for the use of a dangerous weapon is applied.

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SECTION 6. Initial applicability.

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

17 (2) The renumbering and amendment of s. 767.461 and the creation of s.
18 767.461 (1) to (4) first apply to stipulations filed with the court on the effective date
19 of this subsection.

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(END)