



2011 SENATE BILL 65

April 18, 2011 – Introduced by Senators LAZICH, GALLOWAY and LASSA, cosponsored by Representatives KAUFERT and KESTELL. Referred to Committee on Public Health, Human Services, and Revenue.

1 **AN ACT to amend** 48.355 (3) (a), 48.42 (1m) (d), 48.428 (6) (a) and 938.355 (3) (a);
2 **and to create** 48.38 (4) (bv) and 938.38 (4) (bv) of the statutes; **relating to:** the
3 effect of an order denying, limiting, discontinuing, or prohibiting parental
4 visitation with a child who is adjudged to be in need of protection or services,
5 who is the subject of a termination of parental rights petition, or who is in
6 sustaining care following a termination of parental rights on visitation between
7 the child and a sibling and requiring a child’s permanency plan to include a
8 statement as to whether visitation between the child and a sibling is in the best
9 interests of the child and sibling when parental visitation is denied, limited,
10 discontinued, or prohibited.

Analysis by the Legislative Reference Bureau

Under current law, the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) may set reasonable rules of visitation for the parent of a child adjudged to be in need of protection or services. Current law also permits the juvenile court to issue a temporary order or injunction prohibiting a person whose parental rights are sought to be terminated involuntarily from visiting or contacting

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the child who is the subject of the termination of parental rights (TPR) petition. In addition, current law permits the juvenile court to prohibit visitation by a birth parent of a child who has been placed in sustaining care following a TPR.

This bill provides that a denial, limitation, or discontinuation of parental visitation with a child adjudged to be in need of protection or services, a temporary order or injunction prohibiting a person whose parental rights are sought to be terminated from visiting or contacting the child who is the subject of the TPR petition, or a prohibition on visitation by a birth parent of a child in sustaining care following a TPR does not affect visitation between the child and any sibling of the child, including a person who was a sibling of the child before adoption of or TPR to the person, which visitation shall be granted, denied, or continued based on the best interests of the child and sibling, regardless of whether parental visitation is denied, limited, discontinued, or prohibited.

The bill also requires an agency preparing a permanency plan for a child, which is a plan designed to ensure that the child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability, to include in the permanency plan a statement as to whether visitation between the child and any sibling of the child, including a person who was a sibling of the child before adoption of or TPR to the person, would be in the best interests of the child and sibling when parental visitation has been denied, limited, discontinued, or prohibited by the juvenile court or when the agency recommends that parental visitation be denied, limited, discontinued, or prohibited.

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

1 **SECTION 1.** 48.355 (3) (a) of the statutes is amended to read:

2 48.355 (3) (a) Except as provided in par. (b), if, after a hearing on the issue with
3 due notice to the parent or guardian, the court finds that it would be in the best
4 interest of the child, the court may set reasonable rules of parental visitation. Any
5 denial, limitation, or discontinuation of parental visitation under an order under s.
6 48.345, 48.363, or 48.365 shall not affect visitation between the child and any sibling,
7 as defined in s. 48.38 (4) (br) 1., of the child, which visitation shall be granted, denied,
8 or continued based on the best interests of the child and sibling, without regard to
9 whether parental visitation is denied, limited, or discontinued.

10 **SECTION 2.** 48.38 (4) (bv) of the statutes is created to read:

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1 48.38 (4) (bv) If parental visitation has been denied, limited, or discontinued
2 by an order under s. 48.345, 48.363, or 48.365 or prohibited by an order under s.
3 48.428 (6) (a) or if the agency recommends that parental visitation be denied, limited,
4 discontinued, or prohibited, a statement as to whether visitation between the child
5 and any sibling, as defined in par. (br) 1., of the child would be in the best interests
6 of the child and sibling.

7 **SECTION 3.** 48.42 (1m) (d) of the statutes is amended to read:

8 48.42 (1m) (d) A temporary order under par. (b) or an injunction under par. (c)
9 suspends the portion of any order under s. 48.345, 48.363, 48.365, 938.345, 938.363,
10 or 938.365 setting rules of parental visitation until the termination of the temporary
11 order under par. (b) or injunction under par. (c). A temporary order under par. (b) or
12 injunction under par. (c) shall not affect visitation between the child and any sibling,
13 as defined in s. 48.38 (4) (br) 1., of the child, which visitation shall be granted, denied,
14 or continued based on the best interests of the child and sibling, without regard to
15 whether parental visitation is prohibited.

16 **SECTION 4.** 48.428 (6) (a) of the statutes is amended to read:

17 48.428 (6) (a) Except as provided in par. (b), the court may order or prohibit
18 visitation by a birth parent of a child placed in sustaining care. A prohibition on
19 visitation by a birth parent under this paragraph shall not affect visitation between
20 the child and any sibling, as defined in s. 48.38 (4) (br) 1., of the child, which visitation
21 shall be granted, denied, or continued based on the best interests of the child and
22 sibling, without regard to whether parental visitation is prohibited.

23 **SECTION 5.** 938.355 (3) (a) of the statutes is amended to read:

24 938.355 (3) (a) Except as provided in par. (b), if, after a hearing on the issue with
25 due notice to the parent or guardian, the court finds that it would be in the best

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1 interest of the juvenile, the court may set reasonable rules of parental visitation. Any
2 denial, limitation, or discontinuation of parental visitation under an order under s.
3 938.34, 938.345, 938.363, or 938.365 shall not affect visitation between the juvenile
4 and any sibling, as defined in s. 938.38 (4) (br) 1., of the juvenile, which visitation
5 shall be granted, denied, or continued based on the best interests of the juvenile and
6 sibling, without regard to whether parental visitation is denied, limited, or
7 discontinued.

8 **SECTION 6.** 938.38 (4) (bv) of the statutes is created to read:

9 938.38 (4) (bv) If parental visitation has been denied, limited, or discontinued
10 by an order under s. 938.34, 938.345, 938.363, or 938.365 or if the agency
11 recommends that parental visitation be denied, limited, or discontinued, a statement
12 as to whether visitation between the juvenile and any sibling, as defined in par. (br)
13 1., of the juvenile would be in the best interests of the juvenile and sibling.

14 **SECTION 7. Initial applicability.**

15 (1) DENIAL OF PARENTAL VISITATION; SIBLING VISITATION UNAFFECTED. The
16 treatment of sections 48.355 (3) (a), 48.42 (1m) (d), 48.428 (6) (a), and 938.355 (3) (a)
17 of the statutes first applies to a child whose parent is subject to an order denying,
18 limiting, or prohibiting visitation with the child on the effective date of this
19 subsection, regardless of the date of the order.

20 (2) DENIAL OF PARENTAL VISITATION; PERMANENCY PLANS. The treatment of sections
21 48.38 (4) (bv) and 938.38 (4) (bv) of the statutes first applies to a permanency plan
22 prepared on the effective date of this subsection.

23 (END)