



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-1641/2  
EAW:amn&wlj

## 2021 SENATE BILL 116

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

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

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

**SENATE BILL 116**

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:

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 in  
15           s. 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  
17           not 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

**SENATE BILL 116**

1 placement order, the court may approve a stipulation for further modifications to  
2 legal custody or physical placement upon the occurrence of a specified future event,  
3 as defined in s. 767.34 (3) (a), that is reasonably certain to occur within 2 years of the  
4 date of the stipulation and incorporate the terms of the stipulation into any revised  
5 legal custody or physical placement order granted by the court. The court may not  
6 approve a stipulation under this subsection that is based on an anticipated behavior  
7 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  
12 placement or legal custody and file a stipulation with the court that specifies the  
13 agreed upon modification, including a modification to physical placement or legal  
14 custody upon the occurrence of a specified future event, as defined in s. 767.34 (3) (a),  
15 that 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  
17 placement 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.

**SENATE BILL 116**

**SECTION 5**

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.

12 **SECTION 6. Initial applicability.**

13 (1) The treatment of ss. 767.34 (3), 767.41 (5m), and 767.451 (3r) first applies  
14 to actions or proceedings, including actions or proceedings to modify a judgment or  
15 order previously granted, that are commenced on the effective date of this  
16 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.

20 (END)