

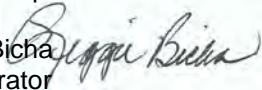
STATE OF WISCONSIN  
Department of Health and Family Services  
Division of Children and Family Services

DCFS Memo Series 2007 -10  
September 4, 2007

Re: Application of First Time  
Adoption Preparation to  
International Adoptions  
under Wis. Stats. s. 48.839.

To: Area Administrators/ Human Services Area Coordinators  
Bureau Directors  
County Departments of Community Programs Directors  
County Departments of Developmental Disabilities  
Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
Licensing Chiefs/Section Chiefs  
Tribal Chairpersons/Human Services Facilitators

From: Reggie Bicha  
Administrator



2005 Wisconsin Act 293 created s. 48.84, Stats., which establishes requirements for pre-adoption preparation for certain proposed adoptive parents who have not previously adopted. Act 293 created a requirement that certain person(s) who have not previously adopted a child must obtain pre-adoption preparation on issues that may confront adoptive parents. The Department has promulgated rules regarding pre-adoption preparation at Ch. HFS 51, Adm. Code. The Emergency Rule became effective on April 1, 2007. The permanent rule became effective August 1, 2007.

As required by Act 293, certain prospective adoptive parents in Wisconsin who have not previously legally adopted a child must complete pre-adoption preparation requirements under s. 48.84, Stats., prior to the Department approving the adoptive placement of a child which is required for the State of Wisconsin to recognize an international adoption under s. 48.97, Stats., and prior to the child being brought into Wisconsin for adoption. Attached to this numbered memo is a memorandum on "Recognition of International Adoptions in Wisconsin".

### Procedure

To obtain recognition of an international adoption in the Wisconsin courts, persons who are Wisconsin residents at the time of the international adoption must obtain the state's approval of the adoptive placement in Wisconsin. The Department will not issue a letter confirming recognition until the parent or parents demonstrate compliance with applicable preadoption preparation training requirements. For international adoptions there may be a significant period of time between the initial efforts to become an adoptive parent and placement of a child. **The Department is directing all licensed child placing agencies subject to HFS 54, to submit their home studies and any other supporting documentation to the Department for the purpose of seeking recognition only after the prospective adoptive parents have completed any applicable training.**

The Department has received questions regarding the application of pre-adoption preparation requirements for parents adopting an international child in a foreign country pursuant to ss. 48.839, and 48.97, Stats. A wide variety of fact situations have been posed and the Department provides guidance in the form of the attached reference chart.

REGIONAL OFFICE CONTACT: Adoption Supervisor

CENTRAL OFFICE CONTACT: Adoption and Interstate Services Section Chief  
Division of Safety and Permanence  
Bureau of Permanence and Out of Home Care  
608-422-6914

MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>

Attachments: Recognition of International Adoptions in Wisconsin

Chart: Application of First Time Adoption Preparation to International Adoptions under s. 48.839, Stats.

## **Recognition of International Adoptions in Wisconsin**

By Therese Durkin, J.D.

June 1, 2007

### **International Adoption Recognized for Wisconsin Residents if DHFS Approved Placement**

If an adoption order is issued by another state, the rights and obligations of a parent and child are recognized in Wisconsin by law. (Wis. Stats. § 48.97).

If an adoption order is issued by a foreign nation, and if the adoptive parents were residents of Wisconsin at the time of a international adoption, the rights and obligations of a parent and child are only recognized in Wisconsin by law if the Wisconsin Department of Health and Family Services (DHFS) has approved the placement.\* (Wis. Stats. § 48.97).

\*Note:

If the adoptive parents were residents of Wisconsin at the time of the international adoption, any applicable preadoptive preparation requirements as provided in Wis. Stats. § 48.84 must be met before the child can be brought into Wisconsin for adoption under Wis. Stats. § 48.839.

If adoptive parents were not residents of Wisconsin at the time of an international adoption, the adoption may be recognized as provided by the laws of the adoptive parents' state.

**48.97 Adoption orders of other jurisdictions.** When the relationship of parent and child has been created by an order of adoption of a court of any other state or nation, the rights and obligations of the parties as to matters within the jurisdiction of this state shall be determined by s. 48.92. If the adoptive parents were residents of this state at the time of the foreign adoption, the preceding sentence applies only if the department has approved the placement. A child whose adoption would otherwise be valid under this section may be readopted in accordance with this chapter.

#### **48.92 Effect of adoption.**

(1) After the order of adoption is entered the relation of parent and child and all the rights, duties and other legal consequences of the natural relation of child and parent thereafter exists between the adopted person and the adoptive parents.

(2) After the order of adoption is entered the relationship of parent and child between the adopted person and the adopted person's birth parents, unless the birth parent is the spouse of the adoptive parent, shall be completely altered and all the rights, duties and other legal consequences of the relationship shall cease to exist. Notwithstanding the extinction of all parental rights under this subsection, a court may order reasonable visitation under s. 48.925. (In relative adoptions, certain relatives who have maintained a parent/child relationship with the child in within 2 years of the petition may be given visitation rights.)

(3) Rights of inheritance by, from and through an adopted child are governed by ss. 854.20 and 854.21...

#### **48.84 Preadoption preparation for proposed adoptive parents.**

48.84(1)

(1) Before a child may be placed under s. 48.833 for adoption by a proposed adoptive parent who has not previously adopted a child, before a proposed adoptive parent who has not previously adopted a child may petition for placement of a child for adoption under s. 48.837, and before a proposed adoptive parent who has not previously adopted a child may bring a child into this state for adoption under s. 48.839, the proposed adoptive parent shall complete the preadoption preparation required under this section. The preparation shall be provided by a licensed child welfare agency, a licensed private adoption agency, the state adoption information exchange under s. 48.55, the state adoption center under s. 48.55, a state-funded foster care and adoption resource center, or a state-funded postadoption resource center. If the proposed adoptive parent does not reside in this state, he or she may meet this requirement by obtaining equivalent preparation in his or her state of residence.

48.42(2)

(2) The department shall promulgate rules establishing the number of hours of preadoption preparation that is required under sub. (1) and the topics covered under that preparation. The preparation shall include training on issues that may confront adoptive parents, in general, and that may confront adoptive parents of special needs children or foreign children.

48.84(3)

(3) A proposed adoptive parent who petitions to adopt a child under s. 48.837 or 48.839 shall pay the costs of the preadoption preparation required under sub. (1). The department shall pay the costs of the preadoption preparation required under sub. (1) for a proposed adoptive parent with whom a child is placed under s. 48.833.

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#### Legal Meaning of Recognition of an International Adoption

Recognition of an international adoption in Wisconsin means that the international adoption is treated under Wisconsin law the same as if it were an adoption ordered in Wisconsin. If a international adoption is treated as an adoption in Wisconsin, it is treated as an adoption in every state of the U.S. The U.S. Constitution requires that each state give full faith and credit to such judicial orders from other states.

#### Practical Meaning of Recognition of International Adoption

While the U.S. Government may recognize an international adoption for certain U.S. Citizenship and Immigration Services (USCIS) purposes regardless of whether the international adoption is recognized by Wisconsin law, (e.g., USCIS may allow the child to enter into the U.S.) the U.S. Government recognition is only for limited purposes.

An international adoption may not be recognized for other non-USCIS purposes in Wisconsin unless it is recognized under Wisconsin law. If an international adoption is not recognized by Wisconsin law, parental rights and child rights may not be recognized under Wisconsin law, or by other states. For example, if an international adoption is not recognized by Wisconsin law, and if the child is not adopted in Wisconsin or another U.S. state:

- “Parents” may not have legally recognized authority to make medical or care decisions for the child.
- The child may not inherit through the parent or other relatives as a child of the “parents” or as a grandchild of the “parents” parents unless proper specific provisions are provided for the child in a will.

**CHART: Application of First Time Adoption Preparation to International Adoptions under s. 48.839, Stats.**

**Definitions:** Child A = first child to be adopted (whether or not adoption is recognized by Wisconsin law.)  
 Child B = second child to be adopted (whether or not the prior adoption is recognized by Wisconsin law.)

INTERNATIONAL ADOPTION	WI ADOPTION	TRAINING REQUIRED?
<b>ADOPTION PLACEMENTS AFTER 4/1/07</b>		
WI residents adopt Child <b>A</b> in foreign country and Adoption is not recognized in WI per s. 48.97.	WI residents want to adopt Child <b>A</b> under WI law	The international adoption is not recognized in WI and training must be completed.
WI residents adopt Child <b>A</b> in foreign country and Adoption is recognized in WI per s. 48.97. Note: DHFS approval after 4/1/07 which is required for adoption to be recognized per s. 48.97 requires compliance with preadoptive preparation requirements.	WI residents want to adopt Child <b>A</b> under WI law	Training requirements met and verified by DHFS prior to placement. Training is not required for subsequent adoption.
WI residents adopt Child <b>A</b> in foreign country and Adoption is not recognized in WI per s. 48.97 and Do not adopt Child <b>A</b> in WI.	WI residents want to adopt Child <b>B</b> under WI law.	Training must be completed before the Child <b>B</b> is brought into WI for adoption under s. 48.839. The prior international adoption is not recognized in WI.
WI residents adopt Child <b>A</b> in foreign country and Adoption is recognized in WI per s. 48.97, and Adopt Child <b>A</b> under WI law	WI residents want to adopt Child <b>B</b> under WI law under s. 48.833, s. 48.837 or s. 48.839	Training is not required. The adoption of Child <b>A</b> is recognized in WI, and qualifies as a prior adoption. Training is not required for subsequent adoptions of other children.
Current WI residents adopted Child <b>A</b> in another US state or foreign country while not a resident of WI and Adoption is recognized by other nation or state.	WI residents now want to adopt Child <b>B</b> under WI law.	Training is not required. The adoption of Child <b>A</b> under the laws of the country or state where the parents resided is recognized in WI and qualifies as a prior adoption. Training is not required for subsequent adoptions of other children in Wisconsin.
<b>ADOPTION PLACEMENTS THAT OCCURRED BEFORE 4/1/07</b>		
WI residents adopt Child <b>A</b> in foreign country and Adoption is not recognized per s. 48.97.	WI residents want to adopt Child <b>A</b> under WI law after 4/1/07.	Training must be completed before an adoptive placement can be made under s. 48.833 or before an adoption petition can be filed. The prior adoption is not recognized in WI. For first time adoptions, training is required for adoption of a child under s. 48.833, 48.837, or s. 48.839, Stats.
WI residents adopt Child <b>A</b> in foreign country and Adoption is recognized per s. 48.97.	WI residents want to adopt Child <b>A</b> under WI law after 4/1/07.	Training is not required. The recognized adoption of Child <b>A</b> under WI law is a prior adoption.
WI residents adopt Child <b>A</b> in foreign country and Adoption not recognized per s. 48.97 and Do not adopt Child <b>A</b> in WI.	WI residents want to adopt Child <b>B</b> under s. 48.833, s. 48.837 or s. 48.839 under WI law after 4/1/07.	Training must be completed before the child is brought into WI for adoption. The prior adoption is not recognized in WI. For first time adoption, training is required for adoption of foreign child under s. 48.833, Stats.
WI residents adopt Child <b>A</b> in foreign country and Adopt Child <b>A</b> under WI law.	WI residents want to adopt Child <b>B</b> under WI law	Training is not required. The adoption of Child <b>A</b> under WI law is a prior adoption. Training is not required for subsequent adoptions of other children.
WI residents adoption Child <b>A</b> in foreign country and Adoption is recognized per s. 48.97	WI residents want to adopt Child <b>B</b> under WI law	Training is not required. The recognized adoption of Child <b>A</b> under WI law is a prior adoption. Training is not required for subsequent adoptions of other children.