FILED
05-29-2025
CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN

IN SUPREME COURT

Case No. 2024AP001596

In the interest of G.L.W., a person under the age of 18:
MONROE COUNTY,

Petitioner-Respondent,

v.

G.L.B.,

Respondent-Appellant-Petitioner.

PETITION FOR REVIEW

COLLEEN MARION
Assistant State Public Defender
State Bar No. 1089028

Office of the State Public Defender
Post Office Box 7862
Madison, WI 53707-7862
(608) 267-5176
marionc@opd.wi.gov

Attorney for Respondent-Appellant-Petitioner

TABLE OF CONTENTS

ISSUES PRESENTED

The County filed a petition to find Little Gary, [1] "in need of protection or services" (CHIPS). Little Gary's father, G.L.B. (Mr. Brown) filed a motion to transfer his case to the Ho Chuck Nation. The circuit court denied that motion, and thereafter, entered a dispositional order, placing Little Gary out of home. The court also gave decision-making authority for Little Gary's medical care to the Department of Health Services. The issues are:

1. Whether, when considering a motion to transfer a CHIPS case to tribal court, the circuit court may consider the perceived inadequacy of the tribal social services department or the tribal court.

The circuit court considered the resources of the tribal social services department and the tribal court when denying the motion.

The court of appeals affirmed, finding that the court's statements about the tribe's resources were not the basis for its denial of the transfer motion. *Monroe Cty v. G.L.B.*, No. 2024AP1596, unpublished slip op. ¶¶23-27 (Apr. 3, 2025). (App.15-17).

This Court should grant review.

[1] Pseudonyms for G.L.B. and his family are used to protect confidentiality.

2. Whether the circuit court lawfully gave medical decision-making authority for Little Gary to the Department of Health Services (DHS) as a condition of the CHIPS order.

The circuit court gave medical decision-making authority to the DHS.

The court of appeals affirmed. *G.L.B.*, No. 2024AP1596, slip op. ¶¶54-65. (App.30-36).

This Court should grant review.

CRITERIA FOR REVIEW

The issues in this case meet two criteria for review: (1) Wis. Stat. § 809.62(1r)(c)3. ("[a] decision by the supreme court will help develop, clarify or harmonize the law," and "[t]he question presented is not factual in nature but rather is a question of law of the type that is likely to recur unless resolved by the supreme court"); and (2) Wis. Stat. § 809.62(1r)(c)2. ("[t]he question presented is a novel one, the resolution of which will have statewide impact").

First issue

This Court has never interpreted the provision governing transfer of a CHIPS case to tribal court. *See* Wis. Stat. § 48.028(3). This statute provides, in relevant part, that "[i]n determining whether good cause exists to deny the transfer, the court may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian

child's tribe." Wis. Stat. § 48.028(3). Here, the court of appeals acknowledged that the circuit court discussed its perceptions about tribal resources, but discounted the circuit court's reliance on these factors. *See G.L.B.*, No. 2024AP1596, slip op. ¶¶25-26. (App.16). Yet, the statute indicates that *any* consideration of perceived inadequacy of tribal resources is disallowed. In addition, clarification is needed on the standard of review from a denial of a transfer motion. In *Brown Cty v. Marcella G.*, 2001 WI App 194, 247 Wis. 2d 158, 634 N.W.2d 140, the court of appeals applied a de novo standard of review. *Id.*, ¶6. Yet, here, the court of appeals reviewed for an erroneous exercise of discretion. *G.L.B.*, No. 2024AP1696, slip op. ¶17. (App.12).

Second issue

This Court has never considered the circuit court's authority to give medical decision-making authority to a government agency in a CHIPS order. The court of appeals found that the court's action was a lawful disposition, without reconciling the fact that the statutes do not contain a specific provision granting this authority. *See G.L.B.*, No. 2024AP1596, slip op. ¶61. (App.33-34).

Review is warranted to clarify the important legal questions presented in this case.

STATEMENT OF THE CASE AND FACTS

Monroe County filed a Petition for Protection or Services under Chapter 48 and the Indian Child Welfare Act. (3). The petition alleged that 12-year-old Gary Jr. ("Little Gary") was "in need of protection or services" under Wis. Stat. § 48.13(10) because his parents, the Browns, were unable to provide for Little Gary's medical needs. (3:3). *See* Wis. Stat. § 48.13(10). The petition advised that Little Gary is a member of the Ho-Chunk Nation. As such, he was subject to the federal Indian Child Welfare Act ("ICWA"). *See* 25 U.S.C. §§ 1901-1963. *See also*, Wis. Stat. § 48.028. The tribe intervened in the case. (17). *See* Wis. Stat. § 48.028(3)(e).

Mr. Brown filed a request to transfer the case to the Ho-Chunk Nation's tribal court. (28). *See* Wis. Stat. § 48.028(3)(c). The court addressed the motion at a hearing. (139; App.53-87). Mrs. Brown joined in the motion to transfer. (139:22; App.74). Counsel for Little Gary filed an objection, stating that the GAL and counsel for the tribe concurred. (32:1). The County did not take a position. (139:21; App.73). The court asked if any of the parties had evidence to present, and they each declined. (139:19-20; App.71-72). Counsel for Little Gary argued that "Monroe County has the resources" to better handle the case. (139:24; App.76). The GAL likewise argued the County had better resources. (139:24; App. 76). Counsel for the tribe also noted that there were resource shortages, "so that is a concern." (139:22; App. 74). However, counsel

acknowledged that, "isn't necessarily included in the good cause." (139:22; App.74).[2]

Mr. Brown's attorney argued that the Browns' other child, Gibson, was under a guardianship in tribal court, and both children's cases should be in the same jurisdiction. (139:21; App.73). In addition, the Browns knew the process and players in the tribe, and were more comfortable working with them. (139:22; App.74). Mr. Brown brought up issues he was having with the County's workers, and told the court that the Nation did more for them and treated them more fairly. (139:29-30; App.81-82).

The circuit court noted that it was required to grant the motion unless it found good cause to deny transfer by clear and convincing evidence. (139:26; App.78). *See* Wis. Stat. § 48.028(3). The court also stated it had not had contact with the tribal court about the case. (139:26; App.78). The court found that there was no burden of proof issue because counsel for Little Gary had filed the objection, which was one of the bases for finding good cause. (139:26-27; App.78-79). *See* Wis. Stat. § 48.028(3)(c)3.a. However, Mr. Brown noted that Little Gary is nonverbal and that the attorney for Little Gary had not met with him or Mrs. Brown. (139:29; App.80). (*See* 135:132).

The court acknowledged that a "perceived inadequacy of tribal social services may not be

[2] Although the tribe's attorney took a position against transfer, "[t]he Tribe and the tribal court are distinct legal entities." *Marcella G.*, 247 Wis. 2d 158, ¶12 n8.

considered in determining good cause." (139:27; App.79). *See* Wis. Stat. § 48.028(3)(c) ("[i]n determining whether good cause exists to deny the transfer, the court may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian child's tribe"). However, the court stated, "I don't know if that means that I can't consider it in relation to this, the final decision." (139:27; App.79). The court stated, "[w]ith that in mind I'm not using that, the concern that there might not be as many resources through tribal social services." (139:27; App.79).

However, the court stated that tribal court was "kind of just starting back up" after decreased activity during COVID. (139:34; App.51). The court stated that, "[m]y biggest concern with this case is that we have [Little Gary] with a lot of different issues, a lot of different medical concerns, and we have people already working on this." (139:34-35; App.86-87). In addition, the court stated that, "[t]ransferring jurisdiction really delays that process," and the court was "confident" that the tribal court had "a lot of things to catch up on." (139:35; App.87). The court stated, "this is a priority case here. And I see this as a situation where good cause exists clearly, and the good cause warrants a denial of transfer of jurisdiction, so I am going to deny the parents' request." (139:35; App.87).

A jury trial commenced on December 18, 2023. The trial centered on evidence that 12-year-old Little Gary had significant special needs. As summarized by

the County, Little Gary is "diagnosed with Autism Spectrum Disorder, global developmental delays, and the Lennox-Gas Taut [sic] Syndrome," and "is nonverbal," "has aggressive behaviors," and is at a "very high risk for self-harm," such that "he requires very close monitoring." (135:132). The County's position was that the Browns were unable to handle Little Gary's medical needs due to their own limitations. (*See* 135:132-133). Counsel for Little Gary summed up the case saying about Little Gary's parents, "I have no doubt they both love him very much, and [Little Gary] loves his parents too" however, Little Gary has a complex situation "that would be a challenge for almost any parent, but even more challenging in this case." (135:135-137).[3]

After the close of evidence, and the parties' closing arguments, the jury returned a verdict finding grounds for a CHIPS disposition. (98).

The court held a disposition hearing on January 17, 2024. (141; App.88-124). The court also received a disposition report, prepared by the County. (78). At the hearing, one of the County's requests was for the court to "designate the Director of Human Services or her designee to make medical decisions for Little [Gary]." (141:7; App.94). Mr. Brown's attorney indicated that Mr. Brown "does not object to the Department making appointments, however, he does

[3] The testimony at trial regarding the details of Little Gary's needs and medical history was lengthy and is not fully presented in this petition for review.

object to them having the full authority over [Gary, Jr.'s] medical care." (141:11-12; App.98-99). Counsel asserted that the Browns retained their parental rights and "some of these medical issues and potential procedures for Little [Gary] would be or could potentially be very significant." (141:12; App.99).

Mr. Brown asked the court to act consistently with his experience in tribal court—which was that social services had the right to make appointments, but "when it comes to putting a child under or surgeries or anything major, the parents are still involved in making that decision." (141:32; App.119).

The court ordered Little Gary to the supervision of DHS, and placed him out of home. (141:19-20; App.106-107). The court also granted the County's request to allow DHS to make medical decisions for Little Gary. (141:32; App.119). The court told Mr. Brown that "the plan" is that he would be "involved" in making all significant medical decisions; however, "the human services director would be the one that would make the final call on these major decisions, at this point." (141:32; App.119). The court entered a Dispositional Order. (118:1-15; App.38-52).

Mr. Brown appealed.[4] As relevant here, he argued first, that the circuit court erroneously denied his transfer motion by relying on its perception that the tribal social services department and the tribal court lacked adequate resources, which is a prohibited

[4] Mrs. Brown also appealed, in Case No. 2024AP001845. She filed a petition for review on April 29, 2025.

consideration under Wis. Stat. § 48.028(3)(c)3. Additionally, he argued that the court did not notify the tribe prior to denying transfer, as required by *Marcella G.*, 247 Wis. 2d 158, ¶14 ("once the circuit court received Marcella's request for transfer, it should have notified the tribal court of the proposed transfer"). Second, Mr. Brown argued that the court erroneously gave medical decision-making authority to the DHS.[5]

The court of appeals affirmed the circuit court on both claims. *G.L.B.*, No. 2024AP1596, unpublished slip op. (App.3-36).

On the first issue, the court of appeals stated that under Wis. Stat. § 48.028(3)(c)3. "good cause excludes consideration of the perceived capacities of or resources available to the tribal social services department or the tribal court," but found that, despite the circuit court's discussion about its concern about resources, "the court did not, as the father argues, consider the perceived inadequacy of tribal resources in determining that good cause exists to deny transfer." *Id.*, ¶26. (App. 16).

As to the second issue, the court of appeals held that, "there is no language in the statute precluding the court, in a dispositional order for out-of-home placement without a transfer of legal custody, from granting the county department decision-making

[5] Mr. Brown also argued that the court erroneously admitted an irrelevant and prejudicial caregiving assessment at trial, but he does not raise that issue in this petition.

authority over the medical care and treatment of the child as part of the out-of-home placement disposition, in the exercise of the circuit court's discretion." *Id.*, ¶61 (App.33-34).

Mr. Brown filed a motion for reconsideration on the second issue, which the court of appeals denied in a three-line order. (App.37).

This petition for review follows.

ARGUMENT

I. This Court should grant review to clarify that, when determining a motion to transfer a CHIPS case to the tribal court, the circuit court "may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian child's tribe."

A. Legal standard and standard of review.

Wisconsin's Indian Child Welfare Act serves the best interest of an Indian child, in accord with the federal Indian Child Welfare Act (ICWA). Wis. Stat. §§ 48.028(1) and 48.01(2) (citing 25 U.S.C. §§ 1901 - 1963).[6] ICWA was enacted, in part, in recognition of the fact that "an alarmingly high percentage of Indian families are broken up by the removal, often

[6] ICWA supersedes state law except when state law provides a higher standard of protection. *I.P. v. State*, 166 Wis. 2d 464, 473, 480 N.W.2d 234 (1992).

unwarranted, of their children from them by nontribal public and private agencies," and the states "have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families." *See* 25 U.S.C. § 1901(4)-(5).

Tribes and states share concurrent jurisdiction in out-of-home placement cases involving children, like Little Gary, who are not domiciled or living on a reservation. *See Marcella G.*, 247 Wis. 2d 158, ¶6 (citing 25 U.S.C. § 1911(b)). However, a parent may ask the state court to transfer a CHIPS proceeding to the tribe. Under ICWA, the state court shall transfer proceedings "in the absence of good cause to the contrary" and "absent objection by either parent," provided that "transfer shall be subject to declination by the tribal court of such tribe." 25 U.S.C. § 1911(b).

Consistent with ICWA, Wis. Stat. § 48.028(3) provides that, "the court assigned to exercise jurisdiction under this chapter *shall*, upon the petition of the Indian child's parent, Indian custodian, or tribe, transfer the proceeding to the jurisdiction of the tribe *unless* any of the following applies:"

> 1. A parent of the Indian child objects to the transfer.
>
> 2. The Indian child's tribe does not have a tribal court, or the tribal court of the Indian child's tribe declines jurisdiction.
>
> 3. The court determines that good cause exists to deny the transfer. *In determining whether good*

> *cause exists to deny the transfer, the court may not consider any perceived inadequacy of the tribal social services department or the tribal court of the Indian child's tribe*. The court *may* determine that good cause exists to deny the transfer only if the person opposing the transfer shows by clear and convincing evidence that any of the following applies:
>
> a. The Indian child is 12 years of age or over and objects to the transfer.
>
> b. The evidence or testimony necessary to decide the case cannot be presented in tribal court without undue hardship to the parties or the witnesses …
>
> c. The Indian child's tribe received notice of the proceeding under sub. (4) (a), the tribe has not indicated to the court in writing that the tribe is monitoring the proceeding and may request a transfer at a later date, the petition for transfer is filed by the tribe, and the petition for transfer is filed more than 6 months after the tribe received notice of the proceeding …

Wis. Stat. § 48.028(3) (emphasis added).

Statutory interpretation begins with the language of the statute, and if the meaning of the statute is plain, the Court ordinarily stops the inquiry. *State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, ¶44, 271 Wis. 2d 633, 681 N.W.2d 110. A statute is "interpreted in the context in which it is used; not in isolation but as part of a whole; in relation to the language of surrounding or closely-related

statutes; and reasonably, to avoid absurd or unreasonable results." *Id.*, ¶44. Interpretation of a statute is a question of law, reviewed de novo. *Waukesha Cty v. M.A.C.*, 2024 WI 30, ¶25, 412 Wis. 2d 462, 8 N.W.3d 365.

The standard of review for a transfer decision requires clarification. In *Marcella G.*, 247 Wis. 2d 158, ¶6, the court of appeals deemed the question of whether the trial court erred in denying a transfer motion a question of law, and reviewed it on appeal de novo. Here, however, the court of appeals reviewed the transfer decision for an erroneous exercise of discretion. *G.L.B.*, No. 2024AP1596, slip op. ¶17 (App.12).

If the Court grants review, it should resolve the conflict. Even if the Court finds that the erroneous exercise of discretion standard applies, that standard still requires that the court "rest its decision on the relevant facts, apply the proper standard of law, and arrive at a reasonable conclusion using a demonstrated rational process." *Hegarty v. Beauchaine*, 2006 WI App 248, ¶37, 297 Wis. 2d 70, 727 N.W.2d 857. A circuit court erroneously exercises its discretion when it applies an incorrect standard of law. *LeMere v. LeMere*, 2003 WI 67, ¶14, 262 Wis. 2d 426, 663 N.W.2d 789.

B. In its denial of the transfer motion the circuit court considered its perception of the inadequacy of the tribal social services department and the tribal court.

When denying Mr. Brown's transfer motion, the circuit court improperly relied on its "perceived inadequacy of the tribal social services department or the tribal court of the Indian child's tribe." *See* Wis. Stat. § 48.028(3) (emphasis added).

As an initial matter, there was no evidence about the tribal court's closure or reopening. There was no evidence about whether or not Little Gary's case would be delayed by transfer. The court asked the opposing parties if they had any evidence to present, and they said no. (139:19-20; App.71-72). The court erroneously exercises its discretion if it "neglects to base its decision upon facts in the record." *LeMere*, 262 Wis. 2d 426, ¶14.

The statute disallows consideration of the perceived inadequacy of both the tribal social services and the tribal court. *See* Wis. Stat. § 48.028(3). The court initially acknowledged that "perceived inadequacy of tribal *social services* may not be considered in determining good cause," but did not similarly state that it was not relying on its perception of the tribal court's inadequacies. (*See* 139:27; App.79) (emphasis added). And it did in fact rely on its perceived inadequacy of the tribal court. The court's statement that tribal court was "catching up" and that transfer would delay the case was just another way of

saying the tribal court was insufficiently resourced by virtue of its lesser means, capacity, and efficiency.

And even though the court stated that it was "not using that, the concern that there might not be as many resources through tribal social services," its comments indicate otherwise. (*See* 139:27; App.79). The court said the County's social services were in a better position to handle Little Gary's case. (139:35; App.87).

The court of appeals noted that the circuit court cited a statutory basis for a finding of good cause—the fact that adversary counsel for Little Gary objected. *G.L.B.*, No. 2024AP1596, unpublished slip op. ¶23. At the time the petition was filed, Little Gary was fourteen days past his twelfth birthday. (3:1). This gave the court discretion to determine whether or not transfer should be granted. *See* Wis. Stat. § 48.028(3)(c), (3)(c)3. (court "may" determine that good cause exists if the child objects).

Yet, even though the court had authority to exercise its discretion on whether or not to transfer the case, this does not change the fact that the consideration of perceived inadequacy of tribal resources may not play any role in the determination. The plain language of the statute, states that, "[i]n *determining* whether good cause exists to deny the transfer, the court *may not consider* any perceived inadequacy of the tribal social services department or the tribal court of the Indian child's tribe." Wis. Stat. § 48.028(3) (emphasis added). The tribe has the

authority to decline jurisdiction after a transfer motion is granted. Therefore, there is no concern that the tribe will be involuntarily burdened with a case. ICWA exists to countenance the history of unfair treatment of the tribes. *See* 25 U.S.C. § 1901(4)-(5). Allowing perceptions of a tribe's inadequacy into the transfer process opens the door to biased treatment. There is good reason why the Legislature chose to prohibit this consideration.

This Court should grant review to clarify the extent to which the court may rely on its perception of the inadequacy of the tribal social services department and the tribal court in deciding a transfer motion.

II. This Court should grant review to clarify the authority of the circuit court to grant medical decision-making authority for a child to the Department of Health Services in a CHIPS order.

A. Legal standard and standard of review.

If CHIPS grounds are established, the court shall hold a dispositional hearing. Wis. Stat. § 48.335. It shall then enter a disposition order with one or more of the dispositions provided in Wis. Stat. § 48.345. When imposing dispositions, the court shall "employ those means necessary to maintain and protect the well-being of the child," that are "the least restrictive of the rights of the parent and child," and "consistent with the protection of the public." Wis. Stat. § 48.355(1).

This Court reviews a circuit court's dispositional order for an erroneous exercise of discretion. *See State v. Richard J.D.*, 2006 WI App 242, ¶5, 297 Wis. 2d 20, 724 N.W.2d 665. A circuit court properly exercises its discretion if it examines the relevant facts, applies the proper legal standard, and uses a rational process to reach a reasonable conclusion. *Id*. A circuit court erroneously exercises its discretion when it applies an incorrect standard of law. *LeMere*, 262 Wis. 2d 426, ¶14.

B. The circuit court erroneously gave medical decision-making authority to the Department of Health Services.

The circuit court ruled that the human services director would be the decision-maker for the "major decisions" related to Little Gary's medical care. (141:32; App.84). Yet, medical decision-making is an exercise of legal custody. Therefore, the court needed to follow the standard for transferring legal custody in order to grant the Department this authority. This it failed to do.

A CHIPS disposition does not terminate a parent's legal custody. Yet, under certain circumstances, the court may transfer legal custody to another as part of a dispositional order. Under Wis. Stat. § 48.345(4):

> (4) If it is shown that the rehabilitation or the treatment and care of the child cannot be accomplished by means of voluntary consent of

> the parent or guardian, transfer legal custody to any of the following:
>
> (a) A relative or like-kin of the child.
>
> (b) The county department in a county having a population of less than 750,000.
>
> (bm) The department in a county having a population of 750,000 or more.
>
> (c) A licensed child welfare agency.

Wis. Stat. § 48.345(4)(a)-(c).

Legal custody "means a legal status created by the order of a court, which confers the right and duty to protect, train and discipline the child, and to provide food, shelter, legal services, education and ordinary medical and dental care, subject to the rights, duties and responsibilities of the guardian of the child and subject to any residual parental rights and responsibilities . . ." Wis. Stat. § 48.02(12). A full transfer of legal custody is not the only option; legal custody can be shared jointly between two parties. *See* Wis. Stat. § 767.001(1s).

Here, the circuit court did not state that it was transferring legal custody, nor did it cite the standard for transferring legal custody. (*See* 141:32; App.84). And the written court order does not contain a transfer of legal custody. (*See* 118:3; App.40). Additionally, an order transferring legal custody would have been invalid because the court did not make factual or legal findings to support transfer. The court did not find

"that the rehabilitation or the treatment and care of the child cannot be accomplished by means of voluntary consent of the parent or guardian." *See* Wis. Stat. § 48.345(4)(a)-(c).

Absent a valid transfer of legal custody, the court could not lawfully remove Mr. Brown's authority to make medical decisions for Little Gary because there is no other CHIPS disposition that would allow it. CHIPS dispositions are defined by enumeration. The statute provides, "[t]he dispositions under this section *are as follows*:" Wis. Stat. § 48.345(1)-(15) (emphasis added). The statute does not use any term of expansiveness. *E.g. State v. James P.,* 2005 WI 80, ¶26, 281 Wis. 2d 685, 698 N.W.2d 95 (considering the use of the term "includes").[7]

The court of appeals found that the circuit court's order was permissible as a condition of the out-of-home disposition— without a need to transfer legal custody. *G.L.B.*, No. 2024AP1596, unpublished slip op. ¶61. (App.32-33). It held that, "there is no language in the statute precluding the court, in a dispositional order for out-of-home placement without a transfer of legal custody, from granting the county department

[7] In *State ex rel. Harris v. Larson*, 64 Wis. 2d 521, 527, 219 N.W.2d 335 (1974), this Court stated that the Chapter 48, "dispositions are enumerated, and legislative guidelines are carefully drawn to circumscribe judicial and administrative action." *Id.* As such, under "the maxim, expressio unius est exclusio alterius…if the legislature did not specifically confer a power, it is evidence of legislative intent not to permit the exercise of the power." *Id.*

decision-making authority over the medical care and treatment of the child as part of the out-of-home placement disposition, in the exercise of the circuit court's discretion." *Id*., ¶61. (App.33). The Court held that, "the granting of medical decision-making authority to the county department is, alone, not a disposition." *Id*.

Yet, the fact there is a disposition governing the transfer of legal custody should exclude orders that effectively operate as piecemeal transfers of the decisions comprising legal custody, such as medical decision-making. If the circuit court intends to transfer legal custody away from the parent, in part or in whole, it must apply Wis. Stat. § 48.345(4), which the court failed to do here. And given that transfer of legal custody is an enumerated disposition, courts may not fold a disposition into "a care and treatment plan" in order to avoid applying the legal standard governing the transfer of legal custody.

Interpreting the statute to allow granting a department medical decision-making authority without legal custody would also lead to unreasonable results. *See Kalal*, 271 Wis. 2d 633, ¶44 (statutes should be interpreted to avoid unreasonable results). The court of appeals did not address the legal incongruity of leaving undisrupted a parent's legal custody, while giving the Department medical decision-making authority. Medical decision-making authority is inherent to legal custody. *See* Wis. Stat. §767.001(2), (2m) (defining legal custody as "the right and responsibility" to make "major decisions,"

including on medical care). *See also*, Wis. Stat. §48.02(12) (defining legal custody when granted to an agency). Removing a parent's medical decision-making authority is effectively a limitation on their exercise of legal custody. And a transfer of legal custody is governed by Wis. Stat. § 48.345(4).

This Court should grant review to clarify the limits on a circuit court's transfer of medical decision-making authority under a CHIPS dispositional order.

CONCLUSION

For the reasons stated above, G.L.B. respectfully asks the Court to grant his petition for review.

Dated this 29th day of May, 2025.

Respectfully submitted,

Electronically signed by Colleen Marion

COLLEEN MARION
Assistant State Public Defender
State Bar No. 1089028

Office of the State Public Defender
Post Office Box 7862
Madison, WI 53707-7862
(608) 267-5176
marionc@opd.wi.gov

Attorney for Respondent-Appellant-Petitioner

CERTIFICATION AS TO FORM/LENGTH

I hereby certify that this petition conforms to the rules contained in s. 809.19(8)(b), (bm) and 809.62(4). The length of this petition is 4,640 words.

CERTIFICATION AS TO APPENDIX

I hereby certify that filed with this petition is an appendix that complies with s. 809.19(2)(a) and that contains, at a minimum: (1) a table of contents; (2) the findings or opinion of the circuit court; (3) a copy of any unpublished opinion cited under s. 809.23(3)(a) or (b); and (4) portions of the record essential to an understanding of the issues raised, including oral or written rules or decisions showing the circuit court's reasoning regarding those issues.

I further certify that if this appeal is taken from a circuit court order or judgment entered in a judicial review or an administrative decision, the appendix contains the findings of fact and conclusions of law, if any, and final decision of the administrative agency.

I further certify that if the record is required by law to be confidential, the portions of the record included in the appendix are reproduced using one or more initials or other appropriate pseudonym or designation instead of full names of persons, specifically including juveniles and parents of juveniles, with a notation that the portions of the record have been so reproduced to preserve confidentiality and with appropriate references to the record.

Dated this 29th day of May, 2025.

Signed:
Electronically signed by
Colleen Marion
COLLEEN MARION
Assistant State Public Defender