

1983 Assembly Bill 666

Date of enactment: **May 2, 1984**
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1983 Wisconsin Act 399

AN ACT *to repeal* 48.365 (2) (intro.) and (b) (intro.) and 1; *to renumber* 48.21 (5) and 48.365 (2) (c); *to renumber and amend* 48.365 (2) (a) and 48.365 (2) (b) 2; *to amend* subchapter VII (title) of chapter 48, 48.205 (1) (b) and 48.356; *to repeal and recreate* 48.33 and 48.355 (2) (b) 5; and *to create* 48.21 (5) (b), 48.34 (2m), 48.355 (2e), 48.365 (2g) (a) and (b), 48.38 and 48.63 (4) of the statutes, *relating to* permanency planning

for children under the jurisdiction of the children's court and granting rule-making authority.

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

SECTION 1. 48.205 (1) (b) of the statutes is amended to read:

48.205 (1) (b) Probable cause exists to believe that the parent, guardian or legal custodian of the child or other responsible adult is unavailable, unwilling or unable to provide adequate supervision and care and that services to ensure the child's safety and well-being are not available or would be inadequate; or

SECTION 2. 48.21 (5) of the statutes is renumbered 48.21 (5) (a).

SECTION 3. 48.21 (5) (b) of the statutes is created to read:

48.21 (5) (b) An order relating to a child held in custody outside of his or her home shall also describe any efforts that were made to permit the child to remain at home and the services that are needed to ensure the child's well-being, to enable the child to return to his or her home and to involve the parents in planning for the child.

SECTION 4. 48.33 of the statutes is repealed and recreated to read:

48.33 Court reports. (1) **REPORT REQUIRED.** Before the disposition of a child adjudged to be delinquent or in need of protection or services the court shall designate an agency to submit a report which shall contain all of the following:

(a) The social history of the child.

(b) A recommended plan of rehabilitation or treatment and care for the child which employs the least restrictive means available to accomplish the objectives of the plan.

(c) The identity of the agency or person recommended to be made primarily responsible for provision of services mandated by the judge.

(d) A statement of the objectives of the plan, including any desired behavior changes and the academic, social and vocational skills needed by the child.

(2) **HOME PLACEMENT REPORTS.** A report recommending that the child remain in his or her home may be presented orally at the dispositional hearing if all parties consent. A report that is presented orally shall be transcribed and made a part of the court record.

(3) **CORRECTIONAL PLACEMENT REPORTS.** A report recommending transfer of the child's custody to the subunit of the department administering corrections for placement in a secured correctional facility shall be in writing and, in addition to the information specified under sub. (1) (a) to (d), shall include a description of any less restrictive alternatives that are available and that have been considered, and why they have been determined to be inappropriate.

(4) **OTHER OUT-OF-HOME PLACEMENTS.** A report recommending placement in a foster home, group home or child caring institution shall be in writing and shall include a permanency plan prepared under s. 48.38.

(5) **IDENTITY OF FOSTER PARENT; CONFIDENTIALITY.** If the report recommends placement in a foster home, and the name of the foster parent is not available at the time the report is filed, the agency shall provide the court and the child's parent or guardian with the name and address of the foster parent within 21 days after the dispositional order is entered, except that the court may order the information withheld from the child's parent or guardian if the court finds that disclosure would result in imminent danger to the child or to the foster parent. After notifying the child's parent or guardian, the court shall hold a hearing prior to ordering the information withheld.

SECTION 5. 48.34 (2m) of the statutes is created to read:

48.34 (2m) Place the child in his or her home under the supervision of an agency, as defined under s. 48.38 (1) (a), and order the agency to provide specified services to the child and the child's family, which may include but are not limited to individual or group counseling, homemaker or parent aide services, respite care, housing assistance, day care or parent skills training.

SECTION 6. 48.355 (2) (b) 5 of the statutes is repealed and recreated to read:

48.355 (2) (b) 5. For a child placed outside his or her home pursuant to an order under s. 48.34 (3) or 48.345, a permanency plan under s. 48.38 if one has been prepared.

SECTION 7. 48.355 (2e) of the statutes is created to read:

48.355 (2e) PERMANENCY PLANS; FILING; AMENDED ORDERS; COPIES. (a) If a permanency plan has not been prepared at the time the dispositional order is entered, or if the court orders a disposition that is not consistent with the permanency plan, the agency responsible for preparing the plan shall prepare a permanency plan that is consistent with the order or revise the permanency plan to conform to the order and shall file the plan with the court within the time specified in s. 48.38 (3). A permanency plan filed under this paragraph shall be made a part of the dispositional order.

(b) Each time a child's placement is changed under s. 48.357 or a dispositional order is revised under s. 48.363 or extended under s. 48.365, the agency that prepared the permanency plan shall revise the plan to conform to the order and shall file a copy of the revised plan with the court. Each plan filed under this paragraph shall be made a part of the court order.

(c) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child's parent or guardian and to the child or the child's counsel or guardian ad litem.

SECTION 8. 48.356 of the statutes is amended to read:

48.356 Duty of court to warn. (1) Whenever the judge orders a child to be placed outside ~~the~~ his or her home because the child has been adjudged to be in need of protection or services under s. 48.345, 48.357, 48.363 or 48.365, the judge shall orally inform the parent or parents who appear in court of any grounds for termination of parental rights under s. 48.415 which may be applicable and of the conditions necessary for the child to be returned to the home including any changes required in the parent's conduct, the nature of the home and the child's conduct.

(2) In addition to the notice required under sub. (1), any written order which places a child outside the home under sub. (1) shall notify the parent or parents of the ~~grounds for termination of parental rights under s. 48.415~~ information specified under sub. (1).

SECTION 9. 48.365 (2) (intro.) and (b) (intro.) and 1 of the statutes are repealed.

SECTION 10. 48.365 (2) (a) of the statutes is renumbered 48.365 (2) and amended to read:

48.365 (2) ~~Notice to~~ No order may be extended without a hearing. The court shall notify the child or the child's guardian ad litem or counsel, and to the child's parent, guardian, legal custodian and all the parties present at the original hearing of the time and place of the hearing.

SECTION 11. 48.365 (2) (b) 2 of the statutes is renumbered 48.365 (2g) (c) and amended to read:

48.365 (2g) (c) In cases where the child has not been placed outside the home, the report shall contain a description of efforts that have been made by all parties concerned toward meeting the objectives of treatment, care or rehabilitation, an explanation of why these efforts have not yet succeeded in meeting the objective, and anticipated future planning for the child.

SECTION 12. 48.365 (2) (c) of the statutes is renumbered 48.365 (2r).

SECTION 13. 48.365 (2g) (a) and (b) of the statutes are created to read:

48.365 (2g) (a) At the hearing the person or agency primarily responsible for providing services to the child shall file with the court a written report stating to what extent the dispositional order has been meeting the objectives of the plan for the child's rehabilitation or care and treatment.

(b) If the child is placed outside of his or her home, the report shall include both of the following:

1. A copy of the report of the review panel under s. 48.38 (5), if any, and a response to the report from the agency primarily responsible for providing services to the child.

2. An evaluation of the child's adjustment to the placement and of any progress the child has made, suggestions for amendment of the permanency plan, a description of efforts to return the child to his or her home, including efforts of the parents to remedy factors which contributed to the child's placement and, if continued placement outside of the child's home is recommended, an explanation of why returning the child to his or her home is not feasible.

SECTION 14. Subchapter VII (title) of chapter 48 of the statutes is amended to read:

CHAPTER 48
SUBCHAPTER VII
PERMANENCY PLANNING; RECORDS

SECTION 15. 48.38 of the statutes is created to read:

48.38 Permanency planning. (1) **DEFINITIONS.** In this section:

(a) "Agency" means the department, a county agency under s. 48.58 or a child welfare agency licensed under s. 48.60.

(b) "Permanency plan" means a plan designed to ensure that a child is reunified with his or her family whenever possible, or that the child quickly attains a placement or home providing long-term stability.

(2) **PERMANENCY PLAN REQUIRED.** Except as provided in sub. (3), for each child living in a foster home, group home, child-caring institution, secure detention facility or shelter care facility, the agency that placed the child or arranged the placement or the agency assigned primary responsibility for providing services to the child under s. 48.355 shall prepare a written permanency plan, if one of the following conditions exists:

(a) The child is being held in physical custody under s. 48.207, 48.208 or 48.209.

(b) The child is in the legal custody of the agency.

(c) The child is under supervision of an agency under s. 48.64 (2) or pursuant to a court order under s. 48.355.

(d) The child was placed under a voluntary agreement between the agency and the child's parent under s. 48.63 (1).

(e) The child is under the guardianship of the agency.

(f) The child's care is paid under s. 49.19.

(3) **TIME.** The agency shall file the permanency plan with the court within 60 days after the date on which the child was first held in physical custody or placed outside of his or her home under a court order, except under either of the following conditions:

(a) If the child is alleged to be delinquent and is being held in a secure detention facility, juvenile portion of a county jail or shelter care facility, and the agency intends to recommend that custody of the child be transferred to the subunit of the department administering corrections for placement in a secured correctional facility, the agency is not required to submit the permanency plan unless the court does not accept the agency's recommendation. If the court places the child in any facility outside of his or her home

other than a secured correctional facility, the agency shall file the permanency plan with the court within 60 days after the date of disposition.

(b) If the child is held for less than 60 days in a secure detention facility, juvenile portion of a county jail or a shelter care facility, no permanency plan is required if the child is returned to his or her home within that period.

(4) CONTENTS OF PLAN. The permanency plan shall include a description of all of the following:

(a) The services offered and any service provided in an effort to prevent holding or placing the child outside of his or her home, and to make it possible for the child to return home.

(b) The basis for the decision to hold the child in custody or to place the child outside of his or her home.

(c) The location and type of facility in which the child is currently held or placed, and the location and type of facility in which the child will be placed.

(d) If the child is living more than 60 miles from his or her home, documentation that placement within 60 miles of the child's home is either unavailable or inappropriate.

(e) The appropriateness of the placement and of the services provided to meet the needs of the child and family, including a discussion of services that have been investigated and considered and are not available or likely to become available within a reasonable time to meet the needs of the child or, if available, why such services are not appropriate.

(f) The services that will be provided to the child, the child's family and the child's foster parent or operator of the facility where the child is living to carry out the dispositional order, including services planned to accomplish all of the following:

1. Ensure proper care and treatment of the child and promote stability in the placement.

2. Meet the child's physical, emotional, social, educational and vocational needs.

3. Improve the conditions of the parents' home to facilitate the return of the child to his or her home, or, if appropriate, obtain an alternative permanent placement for the child.

(g) The conditions, if any, upon which the child will be returned to his or her home, including any changes required in the parents' conduct, the child's conduct or the nature of the home.

(5) PLAN REVIEW. (a) Either the court or, if the court does not elect to do so, a panel consisting of at least 3 persons appointed by the agency that prepared the permanency plan shall review the permanency plan every 6 months from the date on which the child was first held in physical custody or placed outside of his or her home. At least one person on each panel shall be a person who is not employed by the agency that prepared the permanency plan and who is not responsible for providing services to the child or the parents of the child whose permanency plan is the subject of the review.

(b) The court or the agency shall notify the parents of the child, the child if he or she is 12 years of age or older and the child's foster parent or operator of the facility in which the child is living of the time and place of the review and of the fact that they may participate in the review. The notice shall be provided in writing not less than 10 days before the review and a copy shall be filed in the child's case record.

(c) The court or the panel shall determine each of the following:

1. The continuing necessity for and the appropriateness of the placement.

2. The extent of compliance with the permanency plan by the agency and any other service providers, the child's parents and the child.

3. The extent of any efforts to involve appropriate service providers in addition to the agency's staff in planning to meet the special needs of the child and the child's parents.

4. The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child to his or her home or obtaining a permanent placement for the child.

5. The date by which it is likely that the child will be returned to his or her home, placed for adoption, placed under legal guardianship or otherwise permanently placed.

6. If the child has been placed outside of his or her home for 2 years or more, the appropriateness of the permanency plan and the circumstances which prevent the child from being returned to his or her home, being placed for adoption or being placed in sustaining care.

(d) Notwithstanding s. 48.78, a person appointed to a review panel who is not an employe of an agency may have access to the child's records for the purpose of participating in the review. A person permitted access to a child's records under this paragraph may not disclose any information from the records to any other person.

(e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court, the child or the child's counsel or guardian ad litem, the child's parent or guardian and the child's foster parent or operator of the facility where the child is living.

(6) RULES. The department shall promulgate rules establishing the following:

(a) Procedures for conducting permanency plan reviews.

(b) Requirements for training review panels.

(c) Standards for reasonable efforts to prevent placement of children outside of their homes.

(d) The format for permanency plans and review panel reports.

(e) Standards and guidelines for decisions regarding the placement of children.

SECTION 16. 48.63 (4) of the statutes is created to read:

48.63 (4) A permanency plan under s. 48.38 is required for each child placed in a foster home under sub. (1). If the child is living in a foster home under a voluntary agreement, the agency that negotiated or acted as intermediary for the placement shall prepare the permanency plan within 60 days after the placement. A copy of each plan shall be provided to the child if he or she is 12 years of age or over and to the child's parent or guardian. If the agency which arranged the voluntary placement intends to seek a court order to place the child outside of his or her home at the expiration of the voluntary placement, it shall prepare a revised permanency plan and file it with the court prior to the date of the hearing on the proposed placement.
