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1 of removed from his or her home and every 6 months after a previous review under
2 this subsection for as long as the child is placed outside the home. The review that
3 is conducted not later than 6 months after the child was first removed from his or her
4 home and the reviews that are conducted every 12 months after that review shall be
5 conducted by the court or panel as provided in this subsection. The review that is
6 conducted not later than 12 months after the child was first removed from his or her
7 home and the reviews that are conducted every 12 months after that review shall be
8 conducted by the court as provided in sub. (5m). If the court elects not to review the
9 permanency plan, the court shall appoint a panel to review the permanency plan.
10 The panel shall consist of 3 persons who are either designated by an independent
11 agency that has been approved by the chief judge of the judicial administrative
12 district or designated by the agency that prepared the permanency plan. A voting
13 majority of persons on each panel shall be persons who are not employed by the
14 agency that prepared the permanency plan and who are not responsible for providing
15 services to the child or the parents of the child whose permanency plan is the subject
16 of the review.

17 **SECTION 69.** 48.38 (5) (b) of the statutes is amended to read:

18 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
19 child, if he or she is 12 years of age or older, and the child's foster parent, the child's
20 treatment foster parent ~~or~~, the operator of the facility in which the child is living, or
21 the relative with whom the child is living of the date, time, and place of the review,
22 of the issues to be determined as part of the review, and of the fact that they may have
23 an opportunity to be heard at the review by submitting written comments not less
24 than 10 working days before the review or by participating at the review. The court
25 or agency shall notify the person representing the interests of the public, the child's

BILL

1 counsel, the child's guardian ad litem, and the child's court-appointed special
2 advocate of the date of the review, of the issues to be determined as part of the review,
3 and of the fact that they may submit written comments not less than 10 working days
4 before the review. Any written or oral statement made to the court under this
5 paragraph by a foster parent, treatment foster parent, operator of a facility in which
6 a child is living, or relative with whom a child is living shall be made under oath or
7 affirmation. The notices under this paragraph shall be provided in writing not less
8 than 30 days before the review and copies of the notices shall be filed in the child's
9 case record.

10 **SECTION 70.** 48.38 (5) (c) 6. (intro.) of the statutes is amended to read:

11 48.38 (5) (c) 6. (intro.) If the child has been placed outside of his or her home,
12 as described in s. 48.365 (1), for 15 of the most recent 22 months, not including any
13 period during which the child was a runaway from the out-of-home placement or the
14 child was returned to his or her home for a trial home visit of 6 months or less or, if
15 authorized by the court, a trial home visit of more than 6 months, the
16 appropriateness of the permanency plan and the circumstances which prevent the
17 child from any of the following:

18 **SECTION 71.** 48.38 (5) (c) 6. am. of the statutes is renumbered 48.38 (5) (c) 6.
19 cm. and amended to read:

20 48.38 (5) (c) 6. cm. Being placed in the home of a fit and willing relative of the
21 child.

22 **SECTION 72.** 48.38 (5) (c) 6. cg. of the statutes is created to read:

23 48.38 (5) (c) 6. cg. Being placed with a guardian.

24 **SECTION 73.** 48.38 (5) (c) 6. d. of the statutes is amended to read:

BILL

1 48.38 (5) (c) 6. d. Being placed in some other alternative permanent placement,
2 including sustaining care, independent living, or long-term foster care.

3 **SECTION 74.** 48.38 (5) (c) 7. of the statutes, as affected by 2001 Wisconsin Act
4 2, is amended to read:

5 48.38 (5) (c) 7. Whether reasonable efforts were made by the agency to ~~make~~
6 ~~it possible for the child to return safely to his or her home, except that the court or~~
7 ~~panel need not determine whether those reasonable efforts were made with respect~~
8 ~~to a parent of the child if any of the circumstances specified in s. 48.355 (2d) (b) 1.,~~
9 ~~2., 3., 4., or 5. apply to that parent~~ achieve the goal of the permanency plan, unless
10 return of the child to the home is the goal of the permanency plan and any of the
11 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

12 **SECTION 75.** 48.38 (5m) of the statutes is created to read:

13 48.38 (5m) PERMANENCY PLAN HEARING. (a) The court shall hold a hearing to
14 review the permanency plan and to make the determinations specified in sub. (5) (c)
15 no later than 12 months after the date on which the child was first removed from the
16 home and every 12 months after a previous hearing under this subsection for as long
17 as the child is placed outside the home.

18 (b) Not less than 30 days before the date of the hearing, the court shall notify
19 the child; the child's parent, guardian, and legal custodian; the child's foster parent
20 or treatment foster parent, the operator of the facility in which the child is living, or
21 the relative with whom the child is living; the child's court-appointed special
22 advocate; the agency that prepared the permanency plan; and the person
23 representing the interests of the public of the date, time, and place of the hearing.

24 (c) Any person who is provided notice of the hearing may have an opportunity
25 to be heard at the hearing by submitting written comments relevant to the

BILL

1 determinations specified in sub. (5) (c) not less than 10 working days before the date
2 of the hearing or by participating at the hearing. Any written or oral comment made
3 to the court under this paragraph by a foster parent, treatment foster parent,
4 operator of a facility in which a child is living, or relative with whom a child is living
5 shall be made under oath or affirmation. A foster parent, treatment foster parent,
6 operator of a facility in which a child is living, or relative with whom a child is living
7 who receives notice of a hearing under par. (b) and an opportunity to be heard under
8 this paragraph does not become a party to the proceeding on which the hearing is
9 held solely on the basis of receiving that notice and opportunity to be heard.

10 (d) At least 5 days before the date of the hearing the agency that prepared the
11 permanency plan shall provide a copy of the permanency plan and any written
12 comments submitted under par. (c) to the court, to the child's parent, guardian, and
13 legal custodian, to the person representing the interests of the public, to the child's
14 counsel or guardian ad litem, and to the child's court-appointed special advocate.
15 Notwithstanding s. 48.78 (2) (a), the person representing the interests of the public,
16 the child's counsel or guardian ad litem, and the child's court-appointed special
17 advocate may have access to any other records concerning the child for the purpose
18 of participating in the review. A person permitted access to a child's records under
19 this paragraph may not disclose any information from the records to any other
20 person.

21 (e) After the hearing, the court shall make written findings of fact and
22 conclusions of law relating to the determinations under sub. (5) (c) and shall provide
23 a copy of those findings of fact and conclusions of law to the child; the child's parent,
24 guardian, and legal custodian; the child's foster parent or treatment foster parent,
25 the operator of the facility in which the child is living, or the relative with whom the

BILL

1 child is living; the child's court-appointed special advocate; the agency that prepared
2 the permanency plan; and the person representing the interests of the public. The
3 court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based
4 on circumstances specific to the child and shall document the specific information on
5 which those findings are based in the findings of fact and conclusions of law prepared
6 under this paragraph. Findings of fact and conclusions of law that merely reference
7 sub. (5) (c) 7. or that merely reference or incorporate the permanency plan or any
8 other document without documenting that specific information in the findings of fact
9 and conclusions of law or amended findings of fact and conclusions of law that
10 retroactively correct earlier findings of fact and conclusions of law that do not comply
11 with this paragraph are not sufficient to comply with this paragraph.

12 (f) If the findings of fact and conclusions of law under par. (e) conflict with the
13 child's dispositional order or provide for any additional services not specified in the
14 dispositional order, the court shall revise the dispositional order under s. 48.363 or
15 order a change in placement under s. 48.357, as appropriate.

16 **SECTION 76.** 48.417 (1) (a) of the statutes is amended to read:

17 48.417 (1) (a) The child has been placed outside of his or her home, as described
18 in s. 48.365 (1), for 15 of the most recent 22 months, not including any period during
19 which the child was a runaway from the out-of-home placement or the child was
20 returned to his or her home for a trial home visit of 6 months or less or, if authorized
21 by the court, a trial home visit of more than 6 months. If the circumstances specified
22 in this paragraph apply, the petition shall be filed or joined in by the last day of the
23 15th month, as described in this paragraph, for which the child was placed outside
24 of his or her home.

25 **SECTION 77.** 48.417 (1) (b) of the statutes is amended to read:

BILL

1 48.417 (1) (b) A court of competent jurisdiction has found under s. 48.13 (2) or
2 under a law of any other state or a federal law that is comparable to s. 48.13 (2) that
3 the child was abandoned when he or she was under one year of age or has found that
4 the parent abandoned the child when the child was under one year of age in violation
5 of s. 948.20 or in violation of the law of any other state or federal law, if that violation
6 would be a violation of s. 948.20 if committed in this state. If the circumstances
7 specified in this paragraph apply, the petition shall be filed or joined in within 60
8 days after the date on which the court of competent jurisdiction found that the child
9 was abandoned as described in this paragraph.

10 **SECTION 78.** 48.417 (1) (c) of the statutes is amended to read:

11 48.417 (1) (c) A court of competent jurisdiction has found that the parent has
12 committed, has aided or abetted the commission of, or has solicited, conspired, or
13 attempted to commit, a violation of s. 940.01, 940.02, 940.03, or 940.05 or a violation
14 of the law of any other state or federal law, if that violation would be a violation of
15 s. 940.01, 940.02, 940.03, or 940.05 if committed in this state, and that the victim of
16 that violation is a child of the parent. If the circumstances specified in this paragraph
17 apply, the petition shall be filed or joined in within 60 days after the date on which
18 the court assigned to exercise jurisdiction under this chapter determines, based on
19 a finding that a circumstance specified in this paragraph applies, that reasonable
20 efforts to make it possible for the child to return safely to his or her home are not
21 required.

22 **SECTION 79.** 48.417 (1) (d) of the statutes is amended to read:

23 48.417 (1) (d) A court of competent jurisdiction has found that the parent has
24 committed a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or
25 (2), 948.025, or 948.03 (2) (a) or (3) (a) or a violation of the law of any other state or

BILL

1 federal law, if that violation would be a violation of s. 940.19 (2), (3), (4), or (5), 940.225
2 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a) if committed in this state,
3 and that the violation resulted in great bodily harm, as defined in s. 939.22 (14), or
4 in substantial bodily harm, as defined in s. 939.22 (38), to the child or another child
5 of the parent. If the circumstances specified in this paragraph apply, the petition
6 shall be filed or joined in within 60 days after the date on which the court assigned
7 to exercise jurisdiction under this chapter determines, based on a finding that a
8 circumstance specified in this paragraph applies, that reasonable efforts to make it
9 possible for the child to return safely to his or her home are not required.

10 **SECTION 80.** 48.417 (2) (a) of the statutes is amended to read:

11 48.417 (2) (a) The child is being cared for by a fit and willing relative of the
12 child.

13 **SECTION 81.** 48.417 (2) (b) of the statutes is amended to read:

14 48.417 (2) (b) The child's permanency plan indicates and provides
15 documentation that termination of parental rights to the child is not in the best
16 interests of the child.

17 **SECTION 82.** 48.417 (2) (d) of the statutes is created to read:

18 48.417 (2) (d) Grounds for an involuntary termination of parental rights under
19 s. 48.415 do not exist.

20 **SECTION 83.** 48.42 (2g) (am) of the statutes is amended to read:

21 48.42 (2g) (am) The court shall give a foster parent, treatment foster parent,
22 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
23 par. (a) an opportunity to be heard at the hearing by permitting the foster parent,
24 treatment foster parent, or other physical custodian to make a written or oral
25 statement during the hearing, or to submit a written statement prior to the hearing,

BILL

1 relevant to the issues to be determined at the hearing. Any written or oral statement
2 made under this paragraph shall be made upon oath or affirmation. A foster parent,
3 treatment foster parent, or other physical custodian described in s. 48.62 (2) who
4 receives a notice of a hearing under par. (a) and an opportunity to be heard under this
5 paragraph does not become a party to the proceeding on which the hearing is held
6 solely on the basis of receiving that notice and opportunity to be heard.

7 **SECTION 84.** 48.427 (1m) of the statutes is amended to read:

8 48.427 (1m) In addition to any evidence presented under sub. (1), the court
9 shall give the foster parent, treatment foster parent, or other physical custodian
10 described in s. 48.62 (2) of the child an opportunity to be heard at the dispositional
11 hearing by permitting the foster parent, treatment foster parent, or other physical
12 custodian to make a written or oral statement during the dispositional hearing, or
13 to submit a written statement prior to disposition, relevant to the issue of disposition.
14 Any written or oral statement made under this subsection shall be made upon oath
15 or affirmation. A foster parent, treatment foster parent, or other physical custodian
16 described in s. 48.62 (2) who receives notice of a hearing under s. 48.42 (2g) (a) and
17 an opportunity to be heard under this subsection does not become a party to the
18 proceeding on which the hearing is held solely on the basis of receiving that notice
19 and opportunity to be heard.

20 **SECTION 85.** 48.63 (1) of the statutes is amended to read:

21 48.63 (1) Acting pursuant to ~~under~~ court order or voluntary agreement, the
22 child's parent or guardian or the department of health and family services, the
23 department of corrections, a county department, or a child welfare agency licensed
24 to place children in foster homes ~~or~~ treatment foster homes, or group homes may
25 place a child or negotiate or act as intermediary for the placement of a child in a foster

BILL

1 home, treatment foster home, or group home. Voluntary agreements under this
2 subsection may not be used for placements in facilities other than foster, treatment
3 foster, or group homes and may not be extended. A foster home or treatment foster
4 home placement under a voluntary agreement may not exceed ~~6 months~~ 180 days
5 from the date on which the child was removed from the home under the voluntary
6 agreement. A group home placement under a voluntary agreement may not exceed
7 15 days from the date on which the child was removed from the home under the
8 voluntary agreement. These time limitations do not apply to placements made under
9 s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be made only
10 under this subsection and shall be in writing and shall specifically state that the
11 agreement may be terminated at any time by the parent or guardian or by the child
12 if the child's consent to the agreement is required. The child's consent to the
13 agreement is required whenever the child is 12 years of age or older.

14 **SECTION 86.** 48.63 (4) of the statutes is amended to read:

15 48.63 (4) A permanency plan under s. 48.38 is required for each child placed
16 in a foster home or treatment foster home under sub. (1). If the child is living in a
17 foster home or treatment foster home under a voluntary agreement, the agency that
18 negotiated or acted as intermediary for the placement shall prepare the permanency
19 plan within 60 days after the placement date on which the child was removed from
20 his or her home under the voluntary agreement. A copy of each plan shall be provided
21 to the child if he or she is 12 years of age or over and to the child's parent or guardian.
22 If the agency ~~which~~ that arranged the voluntary placement intends to seek a court
23 order to place the child outside of his or her home at the expiration of the voluntary
24 placement, the agency shall prepare a revised permanency plan and file that revised
25 plan with the court prior to the date of the hearing on the proposed placement.

BILL

1 **SECTION 87.** 48.685 (5) (bm) 4. of the statutes is amended to read:

2 48.685 (5) (bm) 4. A violation of s. 125.075 (1), 125.085 (3) (a) 2., 125.105 (2) (b),
3 125.66 (3), 125.68 (12), 940.09, 940.19 (2), (3), (4), (5), or (6), 940.20, 940.203, 940.205
4 or, 940.207, or 940.25, a violation of s. 346.63 (1), (2), (5), or (6) that is a felony under
5 s. 346.65 (2) (c) or (f), (2j) (d), or (3m), or an offense under ch. 961 that is a felony, if
6 committed not more than 5 years before the date of the investigation under sub. (2)
7 (am).

8 **SECTION 88.** 48.78 (2) (a) of the statutes is amended to read:

9 48.78 (2) (a) No agency may make available for inspection or disclose the
10 contents of any record kept or information received about an individual in its care
11 or legal custody, except as provided under s. 48.371, 48.38 (5) (b) or (d) or (5m) (d),
12 48.432, 48.433, 48.93, 48.981 (7), 938.51, or 938.78 or by order of the court.

13 **SECTION 89.** 48.977 (2) (f) of the statutes, as affected by 2001 Wisconsin Act 2,
14 is amended to read:

15 48.977 (2) (f) That the agency primarily responsible for providing services to
16 the child under a court order has made reasonable efforts to make it possible for the
17 child to return to his or her home, while assuring that the child's health and safety
18 are the paramount concerns, but that reunification of the child with the child's
19 parent or parents is unlikely or contrary to the best interests of the child and that
20 further reunification efforts are unlikely to be made or are contrary to the best
21 interests of the child, ~~except that the court need not~~ is not required to find that the
22 agency has made those reasonable efforts with respect to a parent of the child if any
23 of the circumstances specified in s. 48.355 (2d) (b) 1., ~~2., 3., 4., or 5. apply to 5. applies~~
24 to that parent. The court shall make the findings specified in this paragraph on a
25 case-by-case basis based on circumstances specific to the child and shall document

BILL

1 the specific information on which those findings are based in the guardianship order.
2 A guardianship order that merely references this paragraph or that merely
3 references or incorporates the court report under sub. (4) (e) or any other document
4 without documenting that specific information in the order or an amended
5 guardianship order that retroactively corrects an earlier guardianship order that
6 does not comply with this paragraph is not sufficient to comply with this paragraph.

7 **SECTION 90.** 938.21 (2) (am) of the statutes is amended to read:

8 938.21 (2) (am) A juvenile held in a nonsecure place of custody may waive in
9 writing his or her right to participate in the hearing under this section. After any
10 waiver, a ~~hearing~~ rehearing shall be granted upon the request of the juvenile or any
11 other interested party. Any juvenile transferred to a secure detention facility shall
12 thereafter have a ~~hearing~~ rehearing under this section.

13 **SECTION 91.** 938.21 (3) (am) of the statutes is amended to read:

14 938.21 (3) (am) The parent, guardian, or legal custodian may waive his or her
15 right to participate in the hearing under this section. ~~Agreement in writing of the~~
16 ~~juvenile is required if he or she is over 12.~~ After any waiver, a ~~hearing~~ rehearing shall
17 be granted at the request of any the parent, guardian, legal custodian, or any other
18 interested party.

19 **SECTION 92.** 938.21 (5) (b) 1. of the statutes, as affected by 2001 Wisconsin Act
20 16, is repealed and recreated to read:

21 938.21 (5) (b) 1. A finding that continued placement of the juvenile in his or her
22 home would be contrary to the health, safety, and welfare of the juvenile and, unless
23 the judge or juvenile court commissioner finds that any of the circumstances
24 specified in s. 938.355 (2d) (h) 1. to 4. applies, a finding as to whether the person who
25 took the juvenile into custody and the intake worker have made reasonable efforts

BILL

1 to prevent the removal of the juvenile from the home, while assuring that the
2 juvenile's health and safety are the paramount concerns, and to make it possible for
3 the juvenile to return safely home or, if for good cause shown sufficient information
4 is not available for the judge or juvenile court commissioner to make those findings,
5 an order for the county department or agency primarily responsible for providing
6 services to the juvenile under the custody order to file with the court sufficient
7 information for the judge or juvenile court commissioner to make those findings by
8 no later than 5 days after the date of the order.

9 **SECTION 93.** 938.21 (5) (b) 3. of the statutes is created to read:

10 938.21 (5) (b) 3. If the judge or juvenile court commissioner finds that any of
11 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a
12 parent, a determination that the county department or agency primarily responsible
13 for providing services under the custody order is not required to make reasonable
14 efforts with respect to the parent to make it possible for the juvenile to return safely
15 to his or her home.

16 **SECTION 94.** 938.21 (5) (c) of the statutes is created to read:

17 938.21 (5) (c) The judge or juvenile court commissioner shall make the findings
18 specified in par. (b) 1. and 3. on a case-by-case basis based on circumstances specific
19 to the juvenile and shall document the specific information on which those findings
20 are based in the custody order. A custody order that merely references par. (b) 1. or
21 3. or that merely references or incorporates the petition under s. 938.25 or any other
22 document without documenting that specific information in the custody order or an
23 amended custody order that retroactively corrects an earlier custody order that does
24 not comply with this paragraph is not sufficient to comply with this paragraph.

25 **SECTION 95.** 938.21 (5) (d) of the statutes is created to read:

BILL

1 938.21 (5) (d) 1. If the judge or juvenile court commissioner finds that any of
2 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a
3 parent, the judge or juvenile court commissioner shall hold a hearing within 30 days
4 after the date of that finding to determine the permanency plan for the juvenile. If
5 a hearing is held under this subdivision, the agency responsible for preparing the
6 permanency plan shall file the permanency plan with the court not less than 5 days
7 before the date of the hearing.

8 2. If a hearing is held under subd. 1, at least 10 days before the date of the
9 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian
10 of the juvenile, and any foster parent, treatment foster parent, or other physical
11 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of
12 the hearing.

13 3. The court shall give a foster parent, treatment foster parent, or other
14 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
15 2. an opportunity to be heard at the hearing by permitting the foster parent,
16 treatment foster parent, or other physical custodian to make a written or oral
17 statement during the hearing, or to submit a written statement prior to the hearing,
18 relevant to the issues to be determined at the hearing. Any written or oral statement
19 made under this subdivision shall be made upon oath or affirmation. A foster parent,
20 treatment foster parent, or other physical custodian who receives a notice of a
21 hearing under subd. 2. and an opportunity to be heard under this subdivision does
22 not become a party to the proceeding on which the hearing is held solely on the basis
23 of receiving that notice and opportunity to be heard.

24 **SECTION 96.** 938.27 (3) (a) 1m. of the statutes is amended to read:

BILL

1 938.27 (3) (a) 1m. The court shall give a foster parent, treatment foster parent,
2 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
3 subd. 1. an opportunity to be heard at the hearing by permitting the foster parent,
4 treatment foster parent, or other physical custodian to make a written or oral
5 statement during the hearing, or to submit a written statement prior to the hearing,
6 relevant to the issues to be determined at the hearing. Any written or oral statement
7 made under this subdivision shall be made upon oath or affirmation. A foster parent,
8 treatment foster parent, or other physical custodian described in s. 48.62 (2) who
9 receives a notice of a hearing under subd. 1. and an opportunity to be heard under
10 this subdivision does not become a party to the proceeding on which the hearing is
11 held solely on the basis of receiving that notice and opportunity to be heard.

12 **SECTION 97.** 938.315 (2m) of the statutes is created to read:

13 938.315 (2m) No continuance or extension of a time limit specified in this
14 chapter may be granted and no period of delay specified in sub. (1) may be excluded
15 in computing a time requirement under this chapter if the continuance, extension,
16 or exclusion would result in any of the following:

17 (a) The court making an initial finding under s. 938.21 (5) (b) 1., 938.355 (2) (b)
18 6., or 938.357 (2v) (a) 1. that reasonable efforts have been made to prevent the
19 removal of the juvenile from the home, while assuring that the juvenile's health and
20 safety are the paramount concerns, or an initial finding under s. 938.21 (5) (b) 3.,
21 938.355 (2) (b) 6r., or 938.357 (2v) (a) 3. that those efforts were not required to be
22 made because a circumstance specified in s. 938.355 (2d) (b) 1. to 4. applies, more
23 than 60 days after the date on which the juvenile was removed from the home.

24 (b) The court making an initial finding under s. 938.38 (5m) that the agency
25 primarily responsible for providing services to the juvenile has made reasonable

BILL

1 efforts to achieve the goals of the juvenile's permanency plan more than 12 months
2 after the date on which the juvenile was removed from the home or making any
3 subsequent findings under s. 938.38 (5m) as to those reasonable efforts more than
4 12 months after the date of a previous finding as to those reasonable efforts.

5 **SECTION 98.** 938.32 (1) (c) of the statutes is created to read:

6 938.32 (1) (b) 1. If at the time the consent decree is entered into the juvenile
7 is placed outside the home under a voluntary agreement under s. 48.63 or is
8 otherwise living outside the home without a court order and if the consent decree
9 maintains the juvenile in that placement or other living arrangement, the consent
10 decree shall include a finding that placement of the juvenile in his or her home would
11 be contrary to the health, safety, and welfare of the juvenile, a finding as to whether
12 the county department or the agency primarily responsible for providing services to
13 the juvenile has made reasonable efforts to prevent the removal of the juvenile from
14 the home, while assuring that the juvenile's health and safety are the paramount
15 concerns, unless the judge or juvenile court commissioner finds that any of the
16 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and a finding as to
17 whether the county department or agency has made reasonable efforts to achieve the
18 goal of the juvenile's permanency plan, unless return of the juvenile to the home is
19 the goal of the permanency plan and the judge or juvenile court commissioner finds
20 that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

21 2. If the judge or juvenile court commissioner finds that any of the
22 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
23 the consent decree shall include a determination that the county department or
24 agency primarily responsible for providing services under the consent decree is not

BILL

1 required to make reasonable efforts with respect to the parent to make it possible for
2 the juvenile to return safely to his or her home.

3 3. The judge or juvenile court commissioner shall make the findings specified
4 in subds. 1. and 2. on a case-by-case basis based on circumstances specific to the
5 juvenile and shall document the specific information on which those findings are
6 based in the consent decree. A consent decree that merely references subd. 1. or 2.
7 or that merely references or incorporates the permanency plan or any other
8 document without documenting that specific information in the consent decree or an
9 amended consent decree that retroactively corrects an earlier consent decree that
10 does not comply with this subdivision is not sufficient to comply with this
11 subdivision.

12 **SECTION 99.** 938.32 (1) (d) of the statutes is created to read:

13 938.32 (1) (d) 1. If the judge or juvenile court commissioner finds that any of
14 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a
15 parent, the judge or juvenile court commissioner shall hold a hearing within 30 days
16 after the date of that finding to determine the permanency plan for the juvenile. If
17 a hearing is held under this subdivision, the agency responsible for preparing the
18 permanency plan shall file the permanency plan with the court not less than 5 days
19 before the date of the hearing.

20 2. If a hearing is held under subd. 1., at least 10 days before the date of the
21 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian
22 of the juvenile, and any foster parent, treatment foster parent, or other physical
23 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of
24 the hearing.

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1 3. The court shall give a foster parent, treatment foster parent, or other
2 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
3 2. an opportunity to be heard at the hearing by permitting the foster parent,
4 treatment foster parent, or other physical custodian to make a written or oral
5 statement during the hearing, or to submit a written statement prior to the hearing,
6 relevant to the issues to be determined at the hearing. Any written or oral statement
7 made under this subdivision shall be made upon oath or affirmation. A foster parent,
8 treatment foster parent, or other physical custodian who receives a notice of a
9 hearing under subd. 2. and an opportunity to be heard under this subdivision does
10 not become a party to the proceeding on which the hearing is held solely on the basis
11 of receiving that notice and opportunity to be heard.

12 **SECTION 100.** 938.33 (4) (intro.) of the statutes is amended to read:

13 **938.33 (4) OTHER OUT-OF-HOME PLACEMENTS.** (intro.) A report recommending
14 placement in a foster home, treatment foster home, group home, or nonsecured child
15 caring institution or in the home of a relative shall be in writing, except that the
16 report may be presented orally at the dispositional hearing if all parties consent. A
17 report that is presented orally shall be transcribed and made a part of the court
18 record. The report shall include all of the following:

19 **SECTION 101.** 938.33 (4) (c) of the statutes is created to read:

20 **938.33 (4) (c)** Specific information showing that continued placement of the
21 juvenile in his or her home would be contrary to the health, safety, and welfare of the
22 juvenile, specific information showing that the county department or the agency
23 primarily responsible for providing services to the juvenile has made reasonable
24 efforts to prevent the removal of the juvenile from the home, while assuring that the
25 juvenile's health and safety are the paramount concerns, unless any of the

BILL

1 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific information
2 showing that the county department or agency has made reasonable efforts to
3 achieve the goal of the juvenile's permanency plan, unless return of the juvenile to
4 the home is the goal of the permanency plan and any of the circumstances specified
5 in s. 938.355 (2d) (b) 1. to 4. applies.

6 **SECTION 102.** 938.335 (3g) of the statutes is created to read:

7 938.335 (3g) At hearings under this section, if the agency, as defined in s.
8 938.38 (1) (a), is recommending placement of the juvenile in a foster home, treatment
9 foster home, group home, or child caring institution or in the home of a relative, the
10 agency shall present as evidence specific information showing that continued
11 placement of the juvenile in his or her home would be contrary to the health, safety,
12 and welfare of the juvenile, specific information showing that the county department
13 or the agency primarily responsible for providing services to the juvenile has made
14 reasonable efforts to prevent the removal of the juvenile from the home, while
15 assuring that the juvenile's health and safety are the paramount concerns, unless
16 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, and specific
17 information showing that the county department or agency has made reasonable
18 efforts to achieve the goal of the juvenile's permanency plan, unless return of the
19 juvenile to the home is the goal of the permanency plan and any of the circumstances
20 specified in s. 938.355 (2d) (b) 1. to 4. applies.

21 **SECTION 103.** 938.355 (1) of the statutes is amended to read:

22 938.355 (1) INTENT. In any order under s. 938.34 or 938.345, the court shall
23 decide on a placement and treatment finding based on evidence submitted to the
24 court. The disposition shall employ those means necessary to promote the
25 objectives specified in s. 938.01. ~~If the disposition places a juvenile who has been~~

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1 ~~adjudicated delinquent outside the home under s. 938.34 (3) (c) or (d), the order shall~~
2 ~~include a finding that the juvenile's current residence will not safeguard the welfare~~
3 ~~of the juvenile or the community due to the serious nature of the act for which the~~
4 ~~juvenile was adjudicated delinquent.~~ If the judge has determined that any of the
5 conditions specified in s. 938.34 (4m) (b) 1., 2., or 3. applies, that determination shall
6 be prima facie evidence that a less restrictive alternative than placement in a
7 secured correctional facility, a secured child caring institution, or a secured group
8 home is not appropriate. If information under s. 938.331 has been provided in a court
9 report under s. 938.33 (1), the court shall consider that information when deciding
10 on a placement and treatment finding.

11 **SECTION 104.** 938.355 (2) (b) 6. of the statutes is amended to read:

12 938.355 (2) (b) 6. If the juvenile is placed outside the home ~~and if sub. (2d) does~~
13 ~~not apply, the court's, a finding that continued placement of the juvenile in his or her~~
14 home would be contrary to the health, safety, and welfare of the juvenile or, if the
15 juvenile has been adjudicated delinquent and is placed outside the home under s.
16 938.34 (3) (a), (c), or (d), a finding that the juvenile's current residence will not
17 safeguard the welfare of the juvenile or the community due to the serious nature of
18 the act for which the juvenile was adjudicated delinquent. The court order shall also
19 contain a finding as to whether -a- the county department which provides social
20 services or the agency primarily responsible for providing services under a court
21 order has made reasonable efforts to prevent the removal of the juvenile from the
22 home, while assuring that the juvenile's health and safety are the paramount
23 concerns, or, if applicable, the court's unless the court finds that any of the
24 circumstances specified in sub. (2d) (b) 1. to 4. applies, and a finding as to whether
25 the county department or agency primarily responsible for providing services under

BILL

1 ~~a court order~~ has made reasonable efforts to ~~make it possible for the juvenile to~~
2 ~~return safely to his or her home~~ achieve the goal of the juvenile's permanency plan,
3 unless return of the juvenile to the home is the goal of the permanency plan and the
4 court finds that any of the circumstances specified in sub. (2d) (b) 1. to 4. applies. The
5 court shall make the findings specified in this subdivision on a case-by-case basis
6 based on circumstances specific to the juvenile and shall document the specific
7 information on which those findings are based in the court order. A court order that
8 merely references this subdivision or that merely references or incorporates the
9 court report under s. 938.33 (1) or any other document without documenting that
10 specific information in the court order or an amended court order that retroactively
11 corrects an earlier court order that does not comply with this subdivision is not
12 sufficient to comply with this subdivision.

13 **SECTION 105.** 938.355 (2) (b) 6r. of the statutes is created to read:

14 938.355 (2) (b) 6r. If the court finds that any of the circumstances specified in
15 sub. (2d) (b) 1. to 4. applies with respect to a parent, a determination that the county
16 department or agency primarily responsible for providing services under the court
17 order is not required to make reasonable efforts with respect to the parent to make
18 it possible for the juvenile to return safely to his or her home.

19 **SECTION 106.** 938.355 (2b) of the statutes is amended to read:

20 938.355 (2b) **CONCURRENT REASONABLE EFFORTS PERMITTED.** A county
21 department ~~that provides social services~~ or the agency primarily responsible for
22 providing services to a juvenile under a court order may, at the same time as the
23 county department or agency is making the reasonable efforts required under sub.
24 (2) (b) 6. to prevent the removal of the juvenile from the home or to make it possible
25 for the juvenile to return safely to his or her home, work with the department of

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1 health and family services, a county department under s. 48.57 (1) (e) or (hm), or a
2 child welfare agency licensed under s. 48.61 (5) in making reasonable efforts to place
3 the juvenile for adoption, with a guardian, with a fit and willing relative, or in some
4 other alternative permanent placement.

5 **SECTION 107.** 938.355 (2c) (b) of the statutes is amended to read:

6 938.355 (2c) (b) When a court makes a finding under sub. (2) (b) 6. as to whether
7 the county department or the agency primarily responsible for providing services to
8 the juvenile under a court order has made reasonable efforts to ~~make it possible for~~
9 ~~the juvenile to return safely to his or her home~~ achieve the goal of the permanency
10 plan, the court's consideration of reasonable efforts shall include, ~~but not be limited~~
11 ~~to~~, the considerations listed under par. (a) 1. to 5. and whether visitation schedules
12 between the juvenile and his or her parents were implemented, unless visitation was
13 denied or limited by the court.

14 **SECTION 108.** 938.355 (2d) (b) (intro.) of the statutes is amended to read:

15 938.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court ~~need not~~ is
16 not required to include in a dispositional order a finding as to whether ~~a~~ the county
17 department ~~which provides social services~~ or the agency primarily responsible for
18 providing services under a court order has made reasonable efforts with respect to
19 a parent of a juvenile to prevent the removal of the juvenile from the home, while
20 assuring that the juvenile's health and safety are the paramount concerns, or, if
21 applicable, a finding as to whether the county department or agency primarily
22 ~~responsible for providing services under a court order~~ has made reasonable efforts
23 with respect to a parent of a juvenile to ~~make it possible for the juvenile to return~~
24 achieve the permanency plan goal of returning the juvenile safely to his or her home,
25 if the court finds, ~~as evidenced by a final judgment of conviction~~, any of the following:

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1 **SECTION 109.** 938.355 (2d) (b) 1. of the statutes is amended to read:

2 938.355 (2d) (b) 1. That the parent has subjected the juvenile to aggravated
3 circumstances, as evidenced by a final judgment of conviction.

4 **SECTION 110.** 938.355 (2d) (b) 2. of the statutes is amended to read:

5 938.355 (2d) (b) 2. That the parent has committed, has aided or abetted the
6 commission of, or has solicited, conspired, or attempted to commit, a violation of s.
7 940.01, 940.02, 940.03, or 940.05 or a violation of the law of any other state or federal
8 law, if that violation would be a violation of s. 940.01, 940.02, 940.03, or 940.05 if
9 committed in this state, as evidenced by a final judgment of conviction, and that the
10 victim of that violation is a child of the parent.

11 **SECTION 111.** 938.355 (2d) (b) 3. of the statutes is amended to read:

12 938.355 (2d) (b) 3. That the parent has committed a violation of s. 940.19 (2),
13 (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025, or 948.03 (2) (a) or (3) (a)
14 or a violation of the law of any other state or federal law, if that violation would be
15 a violation of s. 940.19 (2), (3), (4), or (5), 940.225 (1) or (2), 948.02 (1) or (2), 948.025,
16 or 948.03 (2) (a) or (3) (a) if committed in this state, as evidenced by a final judgment
17 of conviction, and that the violation resulted in great bodily harm, as defined in s.
18 939.22 (14), or in substantial bodily harm, as defined in s. 939.22 (38), to the juvenile
19 or another child of the parent.

20 **SECTION 112.** 938.355 (2d) (b) 4. of the statutes is amended to read:

21 938.355 (2d) (b) 4. That the parental rights of the parent to another child have
22 been involuntarily terminated, as evidenced by a final order of a court of competent
23 jurisdiction terminating those parental rights.

24 **SECTION 113.** 938.355 (2d) (bm) of the statutes is created to read:

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1 938.355 (2d) (bm) The court shall make a finding specified in par. (b) 1. to 4.
2 on a case-by-case basis based on circumstances specific to the juvenile and shall
3 document the specific information on which that finding is based in the dispositional
4 order. A dispositional order that merely references par. (b) 1. to 4. or that merely
5 references or incorporates a final judgment of conviction, a final order of a court of
6 competent jurisdiction, or any other document without documenting that specific
7 information in the dispositional order or an amended dispositional order that
8 retroactively corrects an earlier dispositional order that does not comply with this
9 paragraph is not sufficient to comply with this paragraph.

10 **SECTION 114.** 938.355 (2d) (c) of the statutes is renumbered 938.355 (2d) (c) 1.
11 and amended to read:

12 938.355 (2d) (c) 1. If the court ~~makes a finding~~ finds that any of the
13 circumstances specified in par. (b) 1., 2., 3., or 4. to 4. applies with respect to a parent,
14 the court shall hold a hearing within 30 days after the date of that finding to
15 determine the permanency plan for the juvenile. If a hearing is held under this
16 ~~paragraph subdivision~~, the agency responsible for preparing the permanency plan
17 shall file the permanency plan with the court not less than 5 days before the date of
18 the hearing.

19 **SECTION 115.** 938.355 (2d) (c) 2. and 3. of the statutes are created to read:

20 938.355 (2d) (c) 2. If a hearing is held under subd. 1, at least 10 days before the
21 date of the hearing the court shall notify the juvenile, any parent, guardian, and legal
22 custodian of the juvenile, and any foster parent, treatment foster parent, or other
23 physical custodian described in s. 48.62 (2) of the juvenile of the time, place, and
24 purpose of the hearing.

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1 3. The court shall give a foster parent, treatment foster parent, or other
2 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
3 2. an opportunity to be heard at the hearing by permitting the foster parent,
4 treatment foster parent, or other physical custodian to make a written or oral
5 statement during the hearing, or to submit a written statement prior to the hearing,
6 relevant to the issues to be determined at the hearing. Any written or oral statement
7 made under this subdivision shall be made upon oath or affirmation. A foster parent,
8 treatment foster parent, or other physical custodian who receives a notice of a
9 hearing under subd. 2. and an opportunity to be heard under this subdivision does
10 not become a party to the proceeding on which the hearing is held solely on the basis
11 of receiving that notice and opportunity to be heard.

12 **SECTION 116.** 938.355 (4) (a) of the statutes is amended to read:

13 938.355 (4) (a) Except as provided under par. (b) or s. 938.368, all orders an
14 order under this section ~~shall terminate at the end of one year unless the court~~
15 ~~specifies a shorter period of time. Except if s. 938.368 applies, extensions or~~
16 ~~revisions, under s. 938.357, or under 938.365 made before the juvenile reaches 18~~
17 years of age that places or continues the placement of the juvenile in his or her home
18 shall terminate at the end of one year after its entry unless the court specifies a
19 shorter period of time. ~~No extension under s. 938.365 of an original dispositional~~
20 ~~order may be granted for a juvenile who is subject to an order under s. 938.34 (4d),~~
21 ~~(4h), (4m) or (4n) if the juvenile is 17 years of age or older when the original~~
22 ~~dispositional order terminates. Any order made before the juvenile reaches the age~~
23 ~~of majority shall be effective for a time up to one year after its entry unless the court~~
24 ~~specifies a shorter period of time or the court terminates the order sooner. Except~~
25 as provided in par. (b) or s. 938.368, an order under this section, under s. 938.357,

BILL

1 or under s. 938.365 made before the juvenile reaches 18 years of age that places or
2 continues the placement of the juvenile in a foster home, treatment foster home,
3 group home, or child caring institution or in the home of a relative shall terminate
4 when the juvenile reaches 18 years of age or at the end of one year after its entry,
5 whichever is later, unless the court specifies a shorter period of time or the court
6 terminates the order sooner.

7 SECTION 117. 938.355 (4) (b) of the statutes is amended to read:

8 938.355 (4) (b) ~~An order under s. 938.34 (4d), (4h) or (4m) for which a juvenile~~
9 ~~has been adjudicated delinquent is subject to par. (a), except that the judge may make~~
10 Except as provided in s. 938.368, an order under s. 938.34 (4d) or (4m) made before
11 the juvenile reaches 18 years of age may apply for up to 2 years after its entry or until
12 the juvenile's 18th birthdate, whichever is earlier and the judge shall make, unless
13 the court specifies a shorter period of time or the court terminates the order sooner.
14 Except as provided in s. 938.368, an order under s. 938.34 (4h) made before the
15 juvenile reaches 18 years of age shall apply for 5 years after its entry, if the juvenile
16 is adjudicated delinquent for committing an act that would be punishable as a
17 Class B felony if committed by an adult, or until the juvenile reaches 25 years of age,
18 if the juvenile is adjudicated delinquent for committing an act that would be
19 punishable as a Class A felony if committed by an adult. Except as provided in s.
20 938.368, an extension of an order under s. 938.34 (4d), (4h), (4m), or (4n) made before
21 the juvenile reaches 17 years of age shall terminate at the end of one year after its
22 entry unless the court specifies a shorter period of time or the court terminates the
23 order sooner. No extension under s. 938.365 of an original dispositional order under
24 s. 938.34 (4d), (4h), (4m), or (4n) may be granted for a juvenile who is 17 years of age
25 or older when the original dispositional order terminates.

BILL

1 **SECTION 118.** 938.355 (6) (a) of the statutes is amended to read:

2 938.355 (6) (a) If a juvenile who has been adjudged delinquent or to have
3 violated a civil law or ordinance, other than an ordinance enacted under s. 118.163
4 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on
5 the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing
6 under s. 938.335, the court explained the conditions to the juvenile and informed the
7 juvenile of those possible sanctions or if before the violation the juvenile has
8 acknowledged in writing that he or she has read, or has had read to him or her, those
9 conditions and possible sanctions and that he or she understands those conditions
10 and possible sanctions. If a juvenile who has been found to be in need of protection
11 or services under s. 938.13 (4), (6m), (7), (12), or (14) violates a condition specified in
12 sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in
13 par. (d), other than placement in a secure detention facility or juvenile portion of a
14 county jail, if, at the dispositional hearing under s. 938.335, the court explained the
15 conditions to the juvenile and informed the juvenile of those possible sanctions or if
16 before the violation the juvenile has acknowledged in writing that he or she has read,
17 or has had read to him or her, those conditions and possible sanctions and that he or
18 she understands those conditions and possible sanctions.

19 (cm) The court may not order the sanction of placement in a place of nonsecure
20 custody specified in par. (d) 1. unless the court finds that the agency primarily
21 responsible for providing services for the juvenile has made reasonable efforts to
22 prevent the removal of the juvenile from his or her home and that continued
23 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.
24 The court shall make the findings specified in this paragraph on a case-by-case basis
25 based on circumstances specific to the juvenile and shall document the specific

BILL

1 information on which that finding is based in the sanction order. A sanction order
2 that merely references this paragraph or that merely references or incorporates the
3 motion for imposition of sanctions or any other document without documenting that
4 specific information in the sanction order or an amended sanction order that
5 retroactively corrects an earlier sanction order that does not comply with this
6 paragraph is not sufficient to comply with this paragraph.

7 **SECTION 119.** 938.355 (6m) (cm) of the statutes is created to read:

8 938.355 (6m) (cm) The court may not order the sanction of placement in a place
9 of nonsecure custody specified in par. (a) 1g. unless the court finds that the agency
10 primarily responsible for providing services for the juvenile has made reasonable
11 efforts to prevent the removal of the juvenile from his or her home and that continued
12 placement of the juvenile in his or her home is contrary to the welfare of the juvenile.
13 The court shall make the findings specified in this paragraph on a case-by-case basis
14 based on circumstances specific to the juvenile and shall document the specific
15 information on which that finding is based in the sanction order. A sanction order
16 that merely references this paragraph or that merely references or incorporates the
17 motion for imposition of sanctions or any other document without documenting that
18 specific information in the sanction order or an amended sanction order that
19 retroactively corrects an earlier sanction order that does not comply with this
20 paragraph is not sufficient to comply with this paragraph.

21 **SECTION 120.** 938.357 (1) of the statutes is renumbered 938.357 (1) (a) and
22 amended to read:

23 938.357 (1) (a) The person or agency primarily responsible for implementing
24 the dispositional order or the district attorney may request a change in the

BILL

1 placement of the juvenile, whether or not the change requested is authorized in the
2 dispositional order ~~and, as provided in par. (b) or (c), whichever is applicable.~~

3 (b) 1. If the proposed change in placement involves any change in placement
4 other than a change in placement specified in par. (c), the person or agency primarily
5 rsponsible for implementing the dispositional order or the district attorney shall
6 cause written notice of the proposed change in placement to be sent to the juvenile
7 ~~or the juvenile's counsel or guardian ad litem, the parent, guardian, and legal~~
8 custodian of the juvenile, and any foster parent, treatment foster parent, or other
9 physical custodian described in s. 48.62 (2), guardian and legal custodian of the
10 juvenile. The notice shall contain the name and address of the new placement, the
11 reasons for the change in placement, a statement describing why the new placement
12 is preferable to the present placement, and a statement of how the new placement
13 satisfies objectives of the treatment plan ordered by the court.

14 2. Any person receiving the notice under this subsection subd. 1, or notice of
15 the specific foster or treatment foster placement under s. 938.355 (2) (b) 2. may obtain
16 a hearing on the matter by filing an objection with the court within 10 days after
17 receipt of the notice. Placements shall may not be changed until 10 days after such
18 notice is sent to the court unless the parent, guardian, or legal custodian and the
19 juvenile, if 12 or more years of age, sign written waivers of objection, except that
20 placement changes which changes in placement that were authorized in the
21 dispositional order may be made immediately if notice is given as required ~~in this~~
22 ~~subsection~~ under subd. 1. In addition, a hearing is not required for placement
23 changes authorized in the dispositional order except ~~where~~ when an objection filed
24 by a person who received notice alleges that new information is available ~~which that~~
25 affects the advisability of the court's dispositional order.

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1 **SECTION 121.** 938.357 (1) (b) 3. of the statutes is created to read:

2 938.357 (1) (b) 3. If the court changes the juvenile's placement from a
3 placement outside the home to another placement outside the home, the change in
4 placement order shall contain one of the statements specified in sub. (2v) (a) 2.

5 **SECTION 122.** 938.357 (1) (c) of the statutes is created to read:

6 938.357 (1) (c) 1. If the proposed change in placement would change the
7 placement of a juvenile placed in the home to a placement outside the home, the
8 person or agency primarily responsible for implementing the dispositional order or
9 the district attorney shall submit a request for the change in placement to the court.
10 The request shall contain the name and address of the new placement, the reasons
11 for the change in placement, a statement describing why the new placement is
12 preferable to the present placement, and a statement of how the new placement
13 satisfies objectives of the treatment plan ordered by the court. The request shall also
14 contain specific information showing that continued placement of the juvenile in his
15 or her home would be contrary to the health, safety, and welfare of the juvenile and,
16 unless any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, specific
17 information showing that the agency primarily responsible for implementing the
18 dispositional order has made reasonable efforts to prevent the removal of the
19 juvenile from the home, while assuring that the juvenile's health and safety are the
20 paramount concerns.

21 2. The court shall hold a hearing prior to ordering any change in placement
22 requested under subd. 1. Not less than 3 days prior to the hearing, the court shall
23 provide notice of the hearing, together with a copy of the request for the change in
24 placement, to the juvenile, the parent, guardian, and legal custodian of the juvenile,

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1 and all parties that are bound by the dispositional order. If all parties consent, the
2 court may proceed immediately with the hearing.

3 3. If the court changes the juvenile's placement from a placement in the
4 juvenile's home to a placement outside the juvenile's home, the change in placement
5 order shall contain the findings specified in sub. (2v) (a) 1., one of the statements
6 specified in sub. (2v) (a) 2., and, if in addition the court finds that any of the
7 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
8 the determination specified in sub. (2v) (a) 3.

9 **SECTION 123.** 938.357 (2) of the statutes is amended to read:

10 938.357 (2) If emergency conditions necessitate an immediate change in the
11 placement of a juvenile placed outside the home, the person or agency primarily
12 responsible for implementing the dispositional order may remove the juvenile to a
13 new placement, whether or not authorized by the existing dispositional order,
14 without the prior notice provided in sub. (1) (b) 1. The notice shall, however, be sent
15 within 48 hours after the emergency change in placement. Any party receiving
16 notice may demand a hearing under sub. (1) (b) 2. In emergency situations, the
17 juvenile may be placed in a licensed public or private shelter care facility as a
18 transitional placement for not more than 20 days, as well as in any placement
19 authorized under s. 938.34 (3).

20 **SECTION 124.** 938.357 (2m) of the statutes is renumbered 938.357 (2m) (a) and
21 amended to read:

22 938.357 (2m) (a) The juvenile, the parent, guardian, or legal custodian of the
23 juvenile, or any person or agency primarily bound by the dispositional order, other
24 than the person or agency responsible for implementing the order, may request a
25 change in placement under this subsection paragraph. The request shall contain the

BILL

1 name and address of the place of the new placement requested and shall state what
2 new information is available ~~which~~ that affects the advisability of the current
3 placement. If the proposed change in placement would change the placement of a
4 juvenile placed in the home to a placement outside the home, the request shall also
5 contain specific information showing that continued placement of the juvenile in the
6 home would be contrary to the health, safety, and welfare of the juvenile and, unless
7 any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, specific
8 information showing that the agency primarily responsible for implementing the
9 dispositional order has made reasonable efforts to prevent the removal of the
10 juvenile from the home, while assuring that the juvenile's health and safety are the
11 paramount concerns. This request shall be submitted to the court. In addition, the
12 court may propose a change in placement on its own motion.

13 (b) The court shall hold a hearing on the matter prior to ordering any change
14 in placement ~~under this subsection requested or proposed under par. (a)~~ if the
15 request states that new information is available ~~which~~ that affects the advisability
16 of the current placement, unless the requested or proposed change in placement
17 involves any change in placement other than a change in placement of a juvenile
18 placed in the home to a placement outside the home and written waivers of objection
19 to the proposed change in placement are signed by all parties entitled to receive
20 notice under sub. (1) (b) 1. and the court approves. If a hearing is scheduled, the court
21 shall notify the juvenile, the parent, guardian, and legal custodian of the juvenile,
22 any foster parent, treatment foster parent, or other physical custodian described in
23 s. 48.62 (2) of the juvenile, and all parties who are bound by the dispositional order
24 at least 3 days prior to the hearing. A copy of the request or proposal for the change

BILL

1 in placement shall be attached to the notice. If all the parties consent, the court may
2 proceed immediately with the hearing.

3 **SECTION 125.** 938.357 (2m) (c) of the statutes is created to read:

4 938.357 (2m) (c) If the court changes the juvenile's placement from a placement
5 in the juvenile's home to a placement outside the juvenile's home, the change in
6 placement order shall contain the findings specified in sub. (2v) (a) 1., one of the
7 statements specified in sub. (2v) (a) 2., and, if in addition the court finds that any of
8 the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a
9 parent, the determination specified in sub. (2v) (a) 3.

10 **SECTION 126.** 938.357 (2r) of the statutes is amended to read:

11 938.357 (2r) If a hearing is held under sub. (1) (b) 2. or (2m) (b) and the change
12 in placement would remove a juvenile from a foster home, treatment foster home, or
13 other placement with a physical custodian described in s. 48.62 (2), the court shall
14 give the foster parent, treatment foster parent, or other physical custodian described
15 in s. 48.62 (2) an opportunity to be heard at the hearing by permitting the foster
16 parent, treatment foster parent, or other physical custodian to make a written or oral
17 statement during the hearing or to submit a written statement prior to the hearing
18 relating to the juvenile and the requested change in placement. Any written or oral
19 statement made under this subsection shall be made under oath or affirmation. A
20 foster parent, treatment foster parent, or other physical custodian described in s.
21 48.62 (2) who receives notice of a hearing under sub. (1) (b) 1. or (2m) (b) and an
22 opportunity to be heard under this subsection does not become a party to the
23 proceeding on which the hearing is held solely on the basis of receiving that notice
24 and opportunity to be heard.

BILL

1 **SECTION 127.** 938.357 (2v) of the statutes, as created by 2001 Wisconsin Act 16,
2 is renumbered 938.357 (2v) (a) 2. and amended to read:

3 938.357 (2v) (a) 2. If ~~a hearing is held under sub. (1) or (2m) and the change~~
4 ~~in placement would place the juvenile outside the home in a placement order would~~
5 change the placement of the juvenile to a placement outside the home recommended
6 by the person or agency primarily responsible for implementing the dispositional
7 order, ~~the change in placement order shall include whether from a placement in the~~
8 home or from another placement outside the home, a statement that the court
9 approves the placement recommended by the person or agency or, if the juvenile is
10 ~~placed outside the home in a placement other than~~ change in placement order would
11 change the placement of the juvenile to a placement outside the home that is not a
12 placement recommended by that person or agency, whether from a placement in the
13 home or from another placement outside the home, a statement that the court has
14 given bona fide consideration to the recommendations made by that person or agency
15 and all parties relating to the juvenile's placement.

16 **SECTION 128.** 938.357 (2v) (a) (intro.) of the statutes is created to read:

17 938.357 (2v) (a) (intro.) A change in placement order under sub. (1) or (2m)
18 shall contain all of the following:

19 **SECTION 129.** 938.357 (2v) (a) 1. of the statutes is created to read:

20 938.357 (2v) (a) 1. If the court changes the juvenile's placement from a
21 placement in the juvenile's home to a placement outside the juvenile's home, a
22 finding that continued placement of the juvenile in his or her home would be contrary
23 to the health, safety, and welfare of the juvenile and, unless a circumstance specified
24 in s. 938.355 (2d) (b) 1. to 4. applies, a finding that the agency primarily responsible
25 for implementing the dispositional order has made reasonable efforts to prevent the

BILL

1 removal of the juvenile from the home, while assuring that the juvenile's health and
2 safety are the paramount concerns.

3 **SECTION 130.** 938.357 (2v) (a) 3. of the statutes is created to read:

4 938.357 (2v) (a) 3. If the court finds that any of the circumstances specified in
5 s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, a determination that the
6 agency primarily responsible for providing services under the change in placement
7 order is not required to make reasonable efforts with respect to the parent to make
8 it possible for the juvenile to return safely to his or her home.

9 **SECTION 131.** 938.357 (2v) (b) of the statutes is created to read:

10 938.357 (2v) (b) The court shall make the findings specified in par. (a) 1. and
11 3. on a case-by-case basis based on circumstances specific to the juvenile and shall
12 document the specific information on which those findings are based in the change
13 in placement order. A change in placement order that merely references par. (a) 1.
14 or 3. or that merely references or incorporates the request for a change in placement
15 or any other document without documenting that specific information in the change
16 in placement order or an amended change in placement order that retroactively
17 corrects an earlier change in placement order that does not comply with this
18 paragraph is not sufficient to comply with this paragraph.

19 **SECTION 132.** 938.357 (2v) (c) of the statutes is created to read:

20 938.357 (2v) (c) 1. If the court finds under par. (a) 3. that any of the
21 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent,
22 the court shall hold a hearing within 30 days after the date of that finding to
23 determine the permanency plan for the juvenile. If a hearing is held under this
24 paragraph, the agency responsible for preparing the permanency plan shall file the
25 permanency plan with the court not less than 5 days before the date of the hearing.

BILL

1 2. If a hearing is held under subd. 1, at least 10 days before the date of the
2 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian
3 of the juvenile, and any foster parent, treatment foster parent, or other physical
4 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of
5 the hearing.

6 3. The court shall give a foster parent, treatment foster parent, or other
7 physical custodian described in s. 48.62 (2) who is notified of a hearing under subd.
8 2. an opportunity to be heard at the hearing by permitting the foster parent,
9 treatment foster parent, or other physical custodian to make a written or oral
10 statement during the hearing, or to submit a written statement prior to the hearing,
11 relevant to the issues to be determined at the hearing. Any written or oral statement
12 made under this subdivision shall be made upon oath or affirmation. A foster parent,
13 treatment foster parent, or other physical custodian who receives a notice of a
14 hearing under subd. 2. and an opportunity to be heard under this subdivision does
15 not become a party to the proceeding on which the hearing is held solely on the basis
16 of receiving that notice and opportunity to be heard.

17 **SECTION 133.** 938.357 (3) of the statutes is amended to read:

18 938.357 (3) Subject to sub. (4) (b) and (c) and (5) (e), if the proposed change in
19 placement would involve placing a juvenile in a secured correctional facility, a
20 secured child caring institution, or a secured group home, notice shall be given as
21 provided in sub. (1) (b) 1. A hearing shall be held, unless waived by the juvenile,
22 parent, guardian, and legal custodian, before the judge makes a decision on the
23 request. The juvenile shall be entitled to counsel at the hearing, and any party
24 opposing or favoring the proposed new placement may present relevant evidence and
25 cross-examine witnesses. The proposed new placement may be approved only if the

BILL

1 judge finds, on the record, that the conditions set forth in s. 938.34 (4m) have been
2 met.

3 **SECTION 134.** 938.357 (4) (b) 2. of the statutes, as affected by 2001 Wisconsin
4 Act 16, is amended to read:

5 938.357 (4) (b) 2. If a juvenile whom the court has placed in a Type 2 child
6 caring institution under s. 938.34 (4d) violates a condition of his or her placement in
7 the Type 2 child caring institution, the child welfare agency operating the Type 2
8 child caring institution shall notify the county department that has supervision over
9 the juvenile and, if the county department agrees to a change in placement under this
10 subdivision, the child welfare agency shall notify the department, and the
11 department, after consulting with the child welfare agency, may place the juvenile
12 in a Type 1 secured correctional facility under the supervision of the department,
13 without a hearing under sub. (1) (b) 2., for not more than 10 days. If a juvenile is
14 placed in a Type 1 secured correctional facility under this subdivision, the county
15 department that has supervision over the juvenile shall reimburse the child welfare
16 agency operating the Type 2 child caring institution in which the juvenile was placed
17 at the rate established under s. 46.037, and that child welfare agency shall reimburse
18 the department at the rate specified in s. 301.26 (4) (d) 2. or 3., whichever is
19 applicable, for the cost of the juvenile's care while placed in a Type 1 secured
20 correctional facility.

21 **SECTION 135.** 938.357 (4) (c) 1. of the statutes is amended to read:

22 938.357 (4) (c) 1. If a juvenile is placed in a Type 2 secured correctional facility
23 operated by a child welfare agency under par. (a) and it appears that a less restrictive
24 placement would be appropriate for the juvenile, the department, after consulting
25 with the child welfare agency that is operating the Type 2 secured correctional

BILL

1 facility in which the juvenile is placed, may place the juvenile in a less restrictive
2 placement, and may return the juvenile to the Type 2 secured correctional facility
3 without a hearing under sub. (1) (b) 2. The child welfare agency shall establish a rate
4 for each type of placement in the manner provided in s. 46.037.

5 **SECTION 136.** 938.357 (4) (c) 2. of the statutes is amended to read:

6 938.357 (4) (c) 2. If a juvenile is placed in a Type 2 child caring institution under
7 s. 938.34 (4d) and it appears that a less restrictive placement would be appropriate
8 for the juvenile, the child welfare agency operating the Type 2 child caring
9 institution shall notify the county department that has supervision over the juvenile
10 and, if the county department agrees to a change in placement under this
11 subdivision, the child welfare agency may place the juvenile in a less restrictive
12 placement. A child welfare agency may also, with the agreement of the county
13 department that has supervision over a juvenile who is placed in a less restrictive
14 placement under this subdivision, return the juvenile to the Type 2 child caring
15 institution without a hearing under sub. (1) (b) 2. The child welfare agency shall
16 establish a rate for each type of placement in the manner provided in s. 46.037.

17 **SECTION 137.** 938.357 (4) (d) of the statutes is amended to read:

18 938.357 (4) (d) The department may transfer a juvenile who is placed in a Type
19 1 secured correctional facility to the Racine youthful offender correctional facility
20 named in s. 302.01 if the juvenile is 15 years of age or over and the office of juvenile
21 offender review in the department has determined that the conduct of the juvenile
22 in the Type 1 secured correctional facility presents a serious problem to the juvenile
23 or others. The factors that the office of juvenile offender review may consider in
24 making that determination shall include, but are not limited to, whether and to what
25 extent the juvenile's conduct in the Type 1 secured correctional facility is violent and

BILL

1 disruptive, the security needs of the Type 1 secured correctional facility, and whether
2 and to what extent the juvenile is refusing to cooperate or participate in the
3 treatment programs provided for the juvenile in the Type 1 secured correctional
4 facility. Notwithstanding sub. (1) (b) 2., a juvenile is not entitled to a hearing
5 regarding the department's exercise of authority under this paragraph unless the
6 department provides for a hearing by rule. A juvenile may seek review of a decision
7 of the department under this paragraph only by the common law writ of certiorari.
8 If the department transfers a juvenile under this paragraph, the department shall
9 send written notice of the transfer to the parent, guardian, legal custodian and
10 committing court.

11 **SECTION 138.** 938.357 (5) (a) of the statutes is amended to read:

12 938.357 (5) (a) The department or a county department, whichever has been
13 designated as a juvenile's aftercare provider under s. 938.34 (4n), may revoke the
14 aftercare status of that juvenile. Revocation of aftercare supervision shall not
15 require prior notice under sub. (1) (b) 1.

16 **SECTION 139.** 938.357 (6) of the statutes is amended to read:

17 938.357 (6) No change in placement may extend the expiration date of the
18 original order, except that if the change in placement is from a placement in the
19 juvenile's home to a placement in a foster home, treatment foster home, group home,
20 or child caring institution or in the home of a relative, the court may extend the
21 expiration date of the original order to the date on which the juvenile reaches 18
22 years of age or to the date that is one year after the date of the change in placement
23 order, whichever is later, or for a shorter period of time as specified by the court. If
24 the change in placement is from a placement in a foster home, treatment foster home,
25 group home, or child caring institution or in the home of a relative to a placement in

BILL

1 the juvenile's home and if the expiration date of the original order is more than one
2 year after the date of the change in placement order, the court shall shorten the
3 expiration date of the original order to the date that is one year after the date of the
4 change in placement order or to an earlier date as specified by the court.

5 **SECTION 140.** 938.365 (1) of the statutes is amended to read:

6 938.365 (1) In this section, a juvenile is considered to have been placed outside
7 of his or her home on the date on which ~~the juvenile was first placed outside of his~~
8 ~~or her home pursuant to an order under this section or s. 938.345, 938.357 or 938.363~~
9 ~~or on the date that is 60 days after the date on which the juvenile was first removed~~
10 ~~from his or her home, whichever is earlier.~~

11 **SECTION 141.** 938.365 (2g) (b) 2. of the statutes is amended to read:

12 938.365 (2g) (b) 2. An evaluation of the juvenile's adjustment to the placement
13 and of any progress the juvenile has made, suggestions for amendment of the
14 permanency plan, ~~a description of efforts to return the juvenile safely to his or her~~
15 ~~home and specific information showing the efforts that have been made to achieve~~
16 the goal of the permanency plan, including, if applicable, the efforts of the parents
17 to remedy the factors which that contributed to the juvenile's placement and, if
18 continued placement outside of the juvenile's home is recommended, an explanation
19 of why returning the juvenile to his or her home is not safe or feasible, unless return
20 of the juvenile to the home is the goal of the permanency plan and any of the
21 circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

22 **SECTION 142.** 938.365 (2g) (b) 3. of the statutes is amended to read:

23 938.365 (2g) (b) 3. If the juvenile has been placed outside of his or her home
24 for 15 of the most recent 22 months, not including any period during which the
25 juvenile was a runaway from the out-of-home placement or the juvenile was

BILL

1 returned to his or her home for a trial home visit of 6 months or less or, if authorized
2 by the court, a trial home visit of more than 6 months, a statement of whether or not
3 a recommendation has been made to terminate the parental rights of the parents of
4 the juvenile. If a recommendation for a termination of parental rights has been
5 made, the statement shall indicate the date on which the recommendation was made,
6 any previous progress made to accomplish the termination of parental rights, any
7 barriers to the termination of parental rights, specific steps to overcome the barriers
8 and when the steps will be completed, reasons why adoption would be in the best
9 interest of the juvenile and whether or not the juvenile should be registered with the
10 adoption information exchange. If a recommendation for termination of parental
11 rights has not been made, the statement shall include an explanation of the reasons
12 why a recommendation for termination of parental rights has not been made. If the
13 lack of appropriate adoptive resources is the primary reason for not recommending
14 a termination of parental rights, the agency shall recommend that the juvenile be
15 registered with the adoption information exchange or report the reason why
16 registering the juvenile is contrary to the best interest of the juvenile.

17 **SECTION 143.** 938.365 (2m) (a) of the statutes is renumbered 938.365 (2m) (a)
18 1. and amended to read:

19 938.365 (2m) (a) 1. Any party may present evidence relevant to the issue of
20 extension. If the juvenile is placed outside of his or her home, the person or agency
21 primarily responsible for providing services to the juvenile shall present as evidence
22 specific information showing that the agency has made reasonable efforts to achieve
23 the goal of the juvenile's permanency plan, unless return of the juvenile to the home
24 is the goal of the permanency plan and any of the circumstances specified in s.
25 938.355 (2d) (b) 1. to 4. applies. The court shall make findings of fact and conclusions

BILL

1 of law based on the evidence. ~~Subject to s. 938.355 (2d), the~~ The findings of fact shall
2 include a finding as to whether reasonable efforts were made by the agency primarily
3 responsible for providing services to the juvenile to make it possible for the juvenile
4 to return safely to his or her home achieve the goal of the juvenile's permanency plan,
5 unless return of the juvenile to the home is the goal of the permanency plan and the
6 court finds that any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4.
7 applies. An order shall be issued under s. 938.355.

8 **SECTION 144.** 938.365 (2m) (a) 2. of the statutes is created to read:

9 938.365 (2m) (a) 2. If the court finds that any of the circumstances specified
10 in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the order shall include
11 a determination that the person or agency primarily responsible for providing
12 services to the juvenile is not required to make reasonable efforts with respect to the
13 parent to make it possible for the juvenile to return safely to his or her home.

14 **SECTION 145.** 938.365 (2m) (a) 3. of the statutes is created to read:

15 938.365 (2m) (a) 3. The court shall make the findings specified in subd. 1.
16 relating to reasonable efforts to achieve the goal of the juvenile's permanency plan
17 and the findings specified in subd. 2. on a case-by-case basis based on circumstances
18 specific to the juvenile and shall document the specific information on which those
19 findings are based in the order issued under s. 938.355. An order that merely
20 references subd. 1. or 2. or that merely references or incorporates the report under
21 sub. (2g) or any other document without documenting that specific information in the
22 order or an amended order that retroactively corrects an earlier order that does not
23 comply with this subdivision is not sufficient to comply with this subdivision.

24 **SECTION 146.** 938.365 (2m) (ad) of the statutes is created to read:

BILL

1 938.365 (2m) (ad) 1. If the court finds that any of the circumstances specified
2 in s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a
3 hearing within 30 days after the date of that finding to determine the permanency
4 plan for the juvenile. If a hearing is held under this subdivision, the agency
5 responsible for preparing the permanency plan shall file the permanency plan with
6 the court not less than 5 days before the date of the hearing.

7 2. If a hearing is held under subd. 1., at least 10 days before the date of the
8 hearing the court shall notify the juvenile, any parent, guardian, and legal custodian
9 of the juvenile, and any foster parent, treatment foster parent, or other physical
10 custodian described in s. 48.62 (2) of the juvenile of the time, place, and purpose of
11 the hearing.

12 **SECTION 147.** 938.365 (2m) (ag) of the statutes is amended to read:

13 938.365 (2m) (ag) ~~In addition to any evidence presented under par. (a), the~~ The
14 court shall give a foster parent, treatment foster parent, or other physical custodian
15 described in s. 48.62 (2) ~~of the juvenile~~ who is notified of a hearing under par. (ad)
16 2. or sub. (2) an opportunity to be heard at the hearing by permitting the foster
17 parent, treatment foster parent, or other physical custodian to make a written or oral
18 statement during the hearing, or to submit a written statement prior to the hearing,
19 relevant to the issue of extension. Any written or oral statement made under this
20 paragraph shall be made under oath or affirmation. A foster parent, treatment foster
21 parent, or other physical custodian described in s. 48.62 (2) who receives notice of a
22 hearing under par. (ad) 2. or sub. (2) and an opportunity to be heard under this
23 paragraph does not become a party to the proceeding on which the hearing is held
24 solely on the basis of receiving that notice and opportunity to be heard.

25 **SECTION 148.** 938.365 (5) of the statutes is amended to read:

BILL

1 938.365 (5) Except as provided in s. 938.368, all orders an order under this
2 section that continues the placement of a juvenile in his or her home or that extends
3 an order under s. 938.34 (4d), (4h), (4m), or (4n) shall be for a specified length of time
4 not to exceed one year after its date of entry. Except as provided in s. 938.368, an
5 order under this section that continues the placement of a juvenile in a foster home,
6 treatment foster home, group home, or child caring institution or in the home of a
7 relative shall be for a specified length of time not to exceed the date on which the
8 juvenile reaches 18 years of age or one year after the date of entry of the order,
9 whichever is later.

10 **SECTION 149.** 938.38 (2) (intro.) of the statutes is amended to read:

11 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
12 for each juvenile living in a foster home, treatment foster home, group home, child
13 caring institution, secure detention facility, or shelter care facility or in the home of
14 a relative, the agency that placed the juvenile or arranged the placement or the
15 agency assigned primary responsibility for providing services to the juvenile under
16 s. 938.355 shall prepare a written permanency plan, if any of the following conditions
17 exists:

18 **SECTION 150.** 938.38 (2) (c) of the statutes is amended to read:

19 938.38 (2) (c) The juvenile is under the supervision of an agency under s. 48.64
20 (2) ~~or pursuant to~~, under a consent decree under s. 938.32 (1) (c), or under a court
21 order under s. 938.355.

22 **SECTION 151.** 938.38 (2) (f) of the statutes is amended to read:

23 938.38 (2) (f) The juvenile's care ~~is paid~~ would be paid for under s. 49.19 but
24 for s. 49.19 (20).

25 **SECTION 152.** 938.38 (3) (intro.) of the statutes is amended to read:

BILL

1 938.38 (3) TIME. (intro.) Subject to s. 938.355 (2d) (c) 1, the agency shall file
2 the permanency plan with the court within 60 days after the date on which the
3 juvenile was first ~~held in physical custody or placed outside of~~ removed from his or
4 her home ~~under a court order~~, except under either of the following conditions:

5 **SECTION 153.** 938.38 (4) (intro.) of the statutes is amended to read:

6 938.38 (4) CONTENTS OF PLAN. (intro.) The permanency plan shall include ~~a~~
7 ~~description of~~ all of the following:

8 **SECTION 154.** 938.38 (4) (a) of the statutes is renumbered 938.38 (4) (ar) and
9 amended to read:

10 938.38 (4) (ar) ~~The~~ A description of the services offered and any service services
11 provided in an effort to prevent holding or placing the juvenile outside of the removal
12 of the juvenile from his or her home, while assuring that the health and safety of the
13 juvenile are the paramount concerns, and to make it possible for the juvenile to
14 return safely home, achieve the goal of the permanency plan, except that the
15 permanency plan need not is not required to include a description of those the
16 services offered or provided with respect to a parent of the juvenile to prevent the
17 removal of the juvenile from the home or to achieve the permanency plan goal of
18 returning the juvenile safely to his or her home if any of the circumstances specified
19 in s. 938.355 (2d) (b) 1., 2., 3. or to 4. apply to that parent.

20 **SECTION 155.** 938.38 (4) (ag) of the statutes is created to read:

21 938.38 (4) (ag) The name, address, and telephone number of the juvenile's
22 parent, guardian, and legal custodian.

23 **SECTION 156.** 938.38 (4) (am) of the statutes is created to read:

24 938.38 (4) (am) The date on which the juvenile was removed from his or her
25 home and the date on which the juvenile was placed in out-of-home care.

BILL

1 **SECTION 157.** 938.38 (4) (bm) of the statutes is amended to read:

2 938.38 (4) (bm) ~~The A statement as to the~~ availability of a safe and appropriate
3 placement with a fit and willing relative of the juvenile and, if a decision is made not
4 to place the juvenile with an available relative, a statement as to why placement with
5 the relative is not safe or appropriate.

6 **SECTION 158.** 938.38 (4) (dg) of the statutes is created to read:

7 938.38 (4) (dg) Information about the juvenile's education, including all of the
8 following:

9 1. The name and address of the school in which the juvenile is or was most
10 recently enrolled.

11 2. Any special education programs in which the juvenile is or was previously
12 enrolled.

13 3. The grade level in which the juvenile is or was most recently enrolled and
14 all information that is available concerning the juvenile's grade level performance.

15 4. A summary of all available education records relating to the juvenile that are
16 relevant to any education goals included in the education services plan prepared
17 under s. 938.33 (1) (e).

18 **SECTION 159.** 938.38 (4) (dm) of the statutes is created to read:

19 938.38 (4) (dm) If as a result of the placement the juvenile has been or will be
20 transferred from the school in which the juvenile is or most recently was enrolled,
21 documentation that a placement that would maintain the juvenile in that school is
22 either unavailable or inappropriate or that a placement that would result in the
23 juvenile's transfer to another school would be in the juvenile's best interests.

24 **SECTION 160.** 938.38 (4) (dr) of the statutes is created to read:

BILL

1 938.38 (4) (dr) Medical information relating to the juvenile, including all of the
2 following:

3 1. The names and addresses of the juvenile's physician, dentist, and any other
4 health care provider that is or was previously providing health care services to the
5 juvenile.

6 2. The juvenile's immunization record, including the name and date of each
7 immunization administered to the juvenile.

8 3. Any known medical condition for which the juvenile is receiving medical care
9 or treatment and any known serious medical condition for which the juvenile has
10 previously received medical care or treatment.

11 4. The name, purpose, and dosage of any medication that is being administered
12 to the juvenile and the name of any medication that causes the juvenile to suffer an
13 allergic or other negative reaction.

14 **SECTION 161.** 938.38 (4) (c) of the statutes is amended to read:

15 938.38 (4) (e) The A plan for ensuring the safety and appropriateness of the
16 placement and a description of the services provided to meet the needs of the juvenile
17 and family, including a discussion of services that have been investigated and
18 considered and are not available or likely to become available within a reasonable
19 time to meet the needs of the juvenile or, if available, why such services are not safe
20 or appropriate.

21 **SECTION 162.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

22 938.38 (4) (f) (intro.) The A description of the services that will be provided to
23 the juvenile, the juvenile's family, and the juvenile's foster parent, the juvenile's
24 treatment foster parent or, the operator of the facility where the juvenile is living,

BILL

1 or the relative with whom the juvenile is living to carry out the dispositional order,
2 including services planned to accomplish all of the following:

3 **SECTION 163.** 938.38 (4) (fg) of the statutes is created to read:

4 938.38 (4) (fg) The goal of the permanency plan or, if the agency is making
5 concurrent reasonable efforts under s. 938.355 (2b), the goals of the permanency
6 plan, in the order of preference specified in subds. 1. to 5. If a goal of the permanency
7 plan is any goal other than return of the juvenile to his or her home, the permanency
8 plan shall include the rationale for deciding on that goal. If a goal of the permanency
9 plan is an alternative permanent placement under subd. 5., the permanency plan
10 shall document a compelling reason why it would not be in the best interest of the
11 juvenile to pursue a goal specified in subds. 1. to 4. The agency shall determine the
12 goal or goals of a juvenile's permanency plan in the following order of preference:

- 13 1. Return of the juvenile to the juvenile's home.
- 14 2. Placement of the juvenile for adoption.
- 15 3. Placement of the juvenile with a guardian.
- 16 4. Permanent placement of the juvenile with a fit and willing relative.
- 17 5. Some other alternative permanent placement, including sustaining care,
18 independent living, or long-term foster care.

19 **SECTION 164.** 938.38 (4) (fm) of the statutes is amended to read:

20 938.38 (4) (fm) If the goal of the permanency plan calls for placing is to place
21 the juvenile for adoption, with a guardian, with a fit and willing relative, or in some
22 other alternative permanent placement, the efforts made to ~~place the juvenile for~~
23 ~~adoption, with a guardian or in some other alternative permanent placement~~ achieve
24 that goal.

25 **SECTION 165.** 938.38 (4) (h) of the statutes is created to read:

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1 938.38 (4) (h) If the juvenile is 15 years of age or over, a description of the
2 programs and services that are or will be provided to assist the juvenile in preparing
3 for the transition from out-of-home care to independent living. The description
4 shall include all of the following:

5 1. The anticipated age at which the juvenile will be discharged from
6 out-of-home care.

7 2. The anticipated amount of time available in which to prepare the juvenile
8 for the transition from out-of-home care to independent living.

9 3. The anticipated location and living situation of the juvenile on discharge
10 from out-of-home care.

11 4. A description of the assessment processes, tools, and methods that have been
12 or will be used to determine the programs and services that are or will be provided
13 to assist the juvenile in preparing for the transition from out-of-home care to
14 independent living.

15 5. The rationale for each program or service that is or will be provided to assist
16 the juvenile in preparing for the transition from out-of-home care to independent
17 living, the time frames for delivering those programs or services, and the intended
18 outcome of those programs or services.

19 **SECTION 166.** 938.38 (5) (a) of the statutes is amended to read:

20 938.38 (5) (a) The court or, subject to this paragraph, a panel appointed under
21 this paragraph shall review the permanency plan ~~every~~ not later than 6 months ~~from~~
22 after the date on which the juvenile was first held in physical custody or placed
23 ~~outside of~~ removed from his or her home and every 12 months after a previous review
24 under this subsection for as long as the juvenile is placed outside the home. The
25 review that is conducted not later than 6 months after the juvenile was first removed

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1 from his or her home and the reviews that are conducted every 12 months after that
2 review shall be conducted by the court or panel as provided in this subsection. The
3 review that is conducted not later than 12 months after the juvenile was first
4 removed from his or her home and the reviews that are conducted every 12 months
5 after that review shall be conducted by the court as provided in sub. (5m). If the court
6 elects not to review the permanency plan, the court shall appoint a panel to review
7 the permanency plan. The panel shall consist of 3 persons who are either designated
8 by an independent agency that has been approved by the chief judge of the judicial
9 administrative district or designated by the agency that prepared the permanency
10 plan. A voting majority of persons on each panel shall be persons who are not
11 employed by the agency that prepared the permanency plan and who are not
12 responsible for providing services to the juvenile or the parents of the juvenile whose
13 permanency plan is the subject of the review.

14 **SECTION 167.** 938.38 (5) (b) of the statutes is amended to read:

15 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
16 the juvenile, if he or she is 10 years of age or older, and the juvenile's foster parent,
17 the juvenile's treatment foster parent ~~or~~, the operator of the facility in which the
18 juvenile is living, or the relative with whom the juvenile is living of the date, time,
19 and place of the review, of the issues to be determined as part of the review, and of
20 the fact that they may have an opportunity to be heard at the review by submitting
21 written comments not less than 10 working days before the review or by
22 participating at the review. The court or agency shall notify the person representing
23 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
24 of the date of the review, of the issues to be determined as part of the review, and of
25 the fact that they may submit written comments not less than 10 working days before

BILL

1 the review. Any written or oral statement made to the court under this paragraph
2 by a foster parent, treatment foster parent, operator of a facility in which a juvenile
3 is living, or relative with whom a juvenile is living shall be made under oath or
4 affirmation. The notices under this paragraph shall be provided in writing not less
5 than 30 days before the review and copies of the notices shall be filed in the juvenile's
6 case record.

7 **SECTION 168.** 938.38 (5) (c) 6. (intro.) of the statutes is amended to read:

8 938.38 (5) (c) 6. (intro.) If the juvenile has been placed outside of his or her
9 home, as described in s. 938.365 (1), for 15 of the most recent 22 months, not including
10 any period during which the juvenile was a runaway from the out-of-home
11 placement or the juvenile was returned to his or her home for a trial home visit of 6
12 months or less or, if authorized by the court, a trial home visit of more than 6 months.

13 the appropriateness of the permanency plan and the circumstances which prevent
14 the juvenile from any of the following:

15 **SECTION 169.** 938.38 (5) (c) 6. am. of the statutes is renumbered 938.38 (5) (c)
16 6. cm. and amended to read:

17 938.38 (5) (c) 6. cm. Being placed in the home of a fit and willing relative of the
18 juvenile.

19 **SECTION 170.** 938.38 (5) (c) 6. cg. of the statutes is created to read:

20 938.38 (5) (c) 6. cg. Being placed with a guardian.

21 **SECTION 171.** 938.38 (5) (c) 6. d. of the statutes is amended to read:

22 938.38 (5) (c) 6. d. Being placed in some other alternative permanent
23 placement, including sustaining care, independent living, or long-term foster care.

24 **SECTION 172.** 938.38 (5) (c) 7. of the statutes is amended to read:

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1 938.38 (5) (c) 7. Whether reasonable efforts were made by the agency to make
2 it possible for the juvenile to return safely to his or her home, except that the court
3 or panel need not determine whether those reasonable efforts were made with
4 respect to a parent of the juvenile if any of the circumstances specified in s. 938.355
5 (2d) (b) 1., 2., 3. or 4. apply to that parent achieve the goal of the permanency plan,
6 unless return of the juvenile to the home is the goal of the permanency plan and any
7 of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies.

8 **SECTION 173.** 938.38 (5m) of the statutes is created to read:

9 938.38 (5m) PERMANENCY PLAN HEARING. (a) The court shall hold a hearing to
10 review the permanency plan and to make the determinations specified in sub. (5) (c)
11 no later than 12 months after the date on which the juvenile was first removed from
12 the home and every 12 months after a previous hearing under this subsection for as
13 long as the juvenile is placed outside the home.

14 (b) Not less than 30 days before the date of the hearing, the court shall notify
15 the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster
16 parent or treatment foster parent, the operator of the facility in which the juvenile
17 is living, or the relative with whom the juvenile is living; the agency that prepared
18 the permanency plan; and the person representing the interests of the public of the
19 date, time, and place of the hearing.

20 (c) Any person who is provided notice of the hearing may have an opportunity
21 to be heard at the hearing by submitting written comments relevant to the
22 determinations specified in sub. (5) (c) not less than 10 working days before the date
23 of the hearing or by participating at the hearing. Any written or oral comment made
24 to the court under this paragraph by a foster parent, treatment foster parent,
25 operator of a facility in which a juvenile is living, or relative with whom a juvenile

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1 is living shall be made under oath or affirmation. A foster parent, treatment foster
2 parent, operator of a facility in which a juvenile is living, or relative with whom a
3 juvenile is living who receives notice of a hearing under par. (b) and an opportunity
4 to be heard under this paragraph does not become a party to the proceeding on which
5 the hearing is held solely on the basis of receiving that notice and opportunity to be
6 heard.

7 (d) At least 5 days before the date of the hearing the agency that prepared the
8 permanency plan shall provide a copy of the permanency plan and any written
9 comments submitted under par. (c) to the court, to the juvenile's parent, guardian,
10 and legal custodian, to the person representing the interests of the public, and to the
11 juvenile's counsel or guardian ad litem. Notwithstanding s. 938.78 (2) (a), the person
12 representing the interests of the public and the juvenile's counsel or guardian ad
13 litem may have access to any other records concerning the juvenile for the purpose
14 of participating in the review. A person permitted access to a juvenile's records under
15 this paragraph may not disclose any information from the records to any other
16 person.

17 (e) After the hearing, the court shall make written findings of fact and
18 conclusions of law relating to the determinations under sub. (5) (c) and shall provide
19 a copy of those findings of fact and conclusions of law to the juvenile; the juvenile's
20 parent, guardian, and legal custodian; the juvenile's foster parent or treatment foster
21 parent, the operator of the facility in which the juvenile is living, or the relative with
22 whom the juvenile is living; the agency that prepared the permanency plan; and the
23 person representing the interests of the public. The court shall make the findings
24 specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to
25 the juvenile and shall document the specific information on which those findings are

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1 based in the findings of fact and conclusions of law prepared under this paragraph.
2 Findings of fact and conclusions of law that merely reference sub. (5) (c) 7. or that
3 merely reference or incorporate the permanency plan or any other document without
4 documenting that specific information in the findings of fact and conclusions of law
5 or amended findings of fact and conclusions of law that retroactively correct earlier
6 findings of fact and conclusions of law that do not comply with this paragraph are not
7 sufficient to comply with this paragraph.

8 (f) If the findings of fact and conclusions of law under par. (e) conflict with the
9 juvenile's dispositional order or provide for any additional services not specified in
10 the dispositional order, the court shall revise the dispositional order under s. 938.363
11 or order a change in placement under s. 938.357, as appropriate.

12 **SECTION 174.** 938.78 (2) (a) of the statutes is amended to read:

13 938.78 (2) (a) No agency may make available for inspection or disclose the
14 contents of any record kept or information received about an individual in its care
15 or legal custody, except as provided under sub. (3) or s. 938.371, 938.38 (5) (b) or (d)
16 or (5m) (d). or 938.51 or by order of the court.

17 **SECTION 175. Nonstatutory provisions.**

18 (1) RELATIVE PLACEMENT PERMANENCY PLANS.

19 (a) Notwithstanding sections 48.38 (3) and 938.38 (3) of the statutes, for
20 children or juveniles who are living in the home of a relative, as defined in section
21 48.02 (15) or 938.02 (15) of the statutes, under the supervision of an agency under
22 section 48.64 (2) of the statutes, under a consent decree under section 48.32 or 938.32
23 of the statutes, or under an order under section 48.355 or 938.355 of the statutes on
24 the day before the effective date of this paragraph, the agency assigned primary
25 responsibility for providing services to those children or juveniles shall file a

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1 permanency plan with that court with respect to not less than 33% of those children
2 or juveniles by July 1, 2002, with respect to not less than 67% of those children or
3 juveniles by September 1, 2002, and with respect to all of those children or juveniles
4 by November 1, 2002, giving priority to those children or juveniles who have been
5 living in the home of a relative for the longest period of time.

6 (b) The agency shall request the court assigned to exercise jurisdiction under
7 chapters 48 and 938 of the statutes, as affected by this act, to make a finding under
8 section 48.363 or 938.363 of the statutes that reasonable efforts have been made to
9 prevent the removal of the child or juvenile from the home or that those efforts are
10 not required to be made because a circumstance specified in section 48.355 (2d) (b)
11 1. to 5. of the statutes, as affected by this act, or section 938.355 (2d) (b) 1. to 4. of the
12 statutes, as affected by this act, applies, not more than 60 days after the date on
13 which the permanency plan is filed.

14 (c) Notwithstanding section 48.38 (5) (a) of the statutes, as affected by this act,
15 section 48.38 (5m) of the statutes, as created by this act, section 938.38 (5) (a) of the
16 statutes, as affected by this act, and section 938.38 (5m) of the statutes, as created
17 by this act, a permanency plan filed under this subsection shall be reviewed within
18 6 months after the date on which the permanency plan is filed and a permanency
19 plan hearing shall be had to review a permanency plan filed under this subsection
20 within 12 months after the date on which the permanency plan is filed.

SECTION 176. Initial applicability.

21
22 (1) JUVENILE COURT ORDERS. The treatment of sections 48.21 (5) (b) 1. and 3., (c),
23 and (d), 48.355 (2) (b) 6. and 6r., (2c) (b), (2d) (b) (intro.), 1., 2., 3., 4., and 5. and (bm),
24 and (4), 48.357 (6), 48.365 (2m) (ag) and (5), 48.977 (2) (f), 938.21 (5) (b) 1. and 3., (c),
25 and (d), 938.32 (1) (c) and (d), 938.355 (2) (b) 6. and 6r., (2c) (b), (2d) (b) (intro.), 1.,

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1 2., 3., 4., and 5. and (bm), (4) (a) and (b), (6) (a), and (6m) (cm), 938.357 (6), and
2 938.365 (2m) (ag) and (5) of the statutes, the renumbering and amendment of
3 sections 48.32 (1), 48.355 (2d) (c), 48.365 (2m) (a), 938.355 (2d) (c), and 938.365 (2m)
4 (a) of the statutes, and the creation of sections 48.32 (1) (b) and (c), 48.355 (2d) (c) 2.
5 and 3., 48.365 (2m) (a) 2. and 3. and (ad), 938.355 (2d) (c) 2. and 3., and 938.365 (2m)
6 (a) 2. and 3. and (ad) of the statutes first apply to a physical custody order, consent
7 decree, dispositional order, change in placement order, extension order, sanction
8 order, or guardianship order entered on the effective date of this subsection.

9 (2) JUVENILE COURT REPORTS. The treatment of sections 48.33 (4) (intro.) and (c),
10 48.365 (1) and (2g) (b) 2. and 3., 938.33 (4) (intro.) and (c), and 938.365 (1) and (2g)
11 (b) 2. and 3. of the statutes first applies to reports filed with the court assigned to
12 exercise jurisdiction under chapters 48 and 938 of the statutes on the effective of this
13 subsection.

14 (3) JUVENILE COURT HEARINGS. The treatment of sections 48.21 (3) (am), 48.27
15 (3) (a) 1m., 48.335 (3g), 48.42 (2g) (am), 48.427 (1m), 938.21 (2) (am) and (3) (am),
16 938.27 (3) (a) 1m., and 938.335 (3g) of the statutes first applies to hearings held by
17 the court assigned to exercise jurisdiction under chapters 48 and 938 of the statutes
18 on the effective of this subsection.

19 (4) PERMANENCY PLAN CONTENTS. The treatment of sections 48.38 (4) (intro.), (a),
20 (ag), (am), (bm), (dg), (dm), (dr), (e), (f) (intro.), (fg), (fm), and (h) and 938.38 (4)
21 (intro.), (a), (ag), (am), (bm), (dg), (dm), (dr), (e), (f) (intro.), (fg), (fm), and (h) of the
22 statutes first applies to permanency plans filed on the effective date of this
23 subsection.

24 (5) PERMANENCY PLAN REVIEWS AND HEARINGS. The treatment of sections 48.38
25 (5) (a), (b), and (c) 6. (intro.), am., cg., and d. and 7. and (5m) and 938.38 (5) (a), (b),

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1 and (c) 6. (intro.), am., cg., and d. and 7. and (5m) of the statutes first applies to
2 permanency plan reviews and hearings for which notice is provided on the effective
3 date of this subsection.

4 (6) CHANGES IN PLACEMENT. The treatment of sections 48.357 (2) and (2r) and
5 938.357 (2), (2r), (3), (4) (b) 2., (c) 1. and 2., and (d), and (5) (a) of the statutes, the
6 renumbering and amendment of sections 48.357 (1), (2m), and (2v) and 938.357 (1),
7 (2m), and (2v) of the statutes, and the creation of sections 48.357 (1) (b) 3., and (c),
8 (2m) (c), and (2v) (a) (intro.), 1., and 3., (b), and (c) and 938.357 (1) (b) 3. and (c), (2m)
9 (c), and (2v) (a) (intro.), 1., and 3., (b), and (c) of the statutes first apply to changes
10 in placement requested or proposed on the effective date of this subsection.

11 (7) TIME LIMITS. The treatment of sections 48.315 (2m) and 938.315 (2m) of the
12 statutes first applies to continuances and extensions granted, and periods of delay
13 that begin, on the effective date of this subsection.

14 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4375/1.dn
GMM:kg:pg

4892/1.dn

~~February 4, 2002~~

Senator Robson

~~Representative Kestell:~~

When the DHFS legal and program staff review this draft, they should note all of the following:

1. **Physical custody hearings and orders.** In ss. 48.21 (3) (am) and 938.21 (2) (am) and (3) (am) the drafting instructions would eliminate the requirement that a parent or juvenile who has waived his or her right to participate in the physical custody hearing be granted a rehearing on request. The draft does not eliminate that requirement because eliminating that requirement would contradict ss. 48.21 (1) (a) and 938.21 (1) (a), which require a parent who is not present at the hearing to be granted a rehearing on request, and ss. 48.21 (3) (e) and 938.21 (2) (e) and (3) (e), which permit a parent or juvenile who is not represented by counsel at the hearing to request a rehearing and which provide that any custody order is subject to rehearing on good cause shown.

Also, in ss. 48.21 (5) (b) 1. and 938.21 (5) (b) 1. the draft requires the court to include in a custody order not only a finding that reasonable efforts to prevent the removal of the child from the home were made but also a finding that continued placement of the child in the home would be contrary to the welfare of the child and a finding that reasonable efforts were made to return the child to the home. The draft requires the contrary-to-welfare finding because 45 CFR 1356.21 (c) requires that finding to be made in the first court ruling that sanctions, even temporarily, the removal of a child from the home. The draft requires the reasonable efforts to return the child to the home finding because s. 48.20 (2) (ag) and (7) (b) and 938.20 (2) (ag) and (7) (b) require the person who took the child into custody and the intake worker to make every effort to release the child to his or her parents.

In addition, in ss. 48.21 (5) (b) 1. and 938.21 (5) (b) 1. the draft does not require that the contrary-to-welfare and reasonable-efforts findings be made within 60 days after the child is removed from the home because current ss. 48.21 (1) (a) and 938.21 (1) (a) already require the custody hearing to be held within 48 hours after the child is taken into custody, not including Saturdays, Sundays, and legal holidays, with one 72-hour extension permitted. Instead, that 60-day time limit is covered in ss. 48.315 (2m) and 938.315 (2m), as created by the draft, relating to time limits.

2. **Documentation of judicial findings.** The drafting instructions would require the CHIPS, JIPS, delinquency, or civil law or ordinance violation petition under s.

48.255 or 938.255 to allege the factual basis for the contrary-to-welfare and reasonable-efforts findings. The draft does not require the petition to make those allegations because not every petition results in an out-of-home placement. Also, even if the disposition does ultimately result in an out-of-home placement, it would be premature to make those allegations at the petition stage before the case has been fully investigated and a permanency plan determined. Accordingly, the draft instead requires the agency to include that factual basis in the court report under ss. 48.33 and 938.33 and to present evidence as to that factual basis at the dispositional hearing under ss. 48.335 and 938.335.

Also, the federal regulations prohibit "nunc pro tunc" orders, which literally means "now for then" orders. Rather than draft a Latin term that nobody understands, the draft translates that term to mean "an amended order that retroactively corrects an earlier order" that does not comply with the federal requirements.

3. **Time limits.** In s. 48.315 (2m), which prohibits extensions, continuances, and periods of delay that would result in the court making the contrary-to-welfare and reasonable-efforts findings more than 60 days after the child is removed from the home or in the court finalizing the permanency plan more than 12 months after the child is removed from the home, the draft includes a provision that is similar to s. 938.315 (3) under current law clarifying that a failure to meet those time limits does not deprive the court of jurisdiction or of competency to exercise that jurisdiction and providing the court with flexibility in fashioning remedies for a failure to meet those time limits, such as dismissing the proceeding with or without prejudice, ordering the release of the child, or granting such other relief as the court considers appropriate.

The draft includes that provision because, under current law, failure to meet a time limit results in the court losing competency to proceed, which in turn results in the child being returned to the home, without regard to whether the home is safe. This draconian remedy does not serve to protect children; instead it only serves to punish the child for the error of the district attorney. With the inflexible time limits mandated by the federal regulations, some fail-safe mechanism is necessary to protect children in those rare, but inevitable, cases in which a time limit is missed through no fault of the child. Indeed, you might wish to consider drafting a provision in s. 48.315 that is similar to s. 938.315 (3) to protect children in all cases of missed time limits and not just those cases covered in this draft.

4. **Termination of orders.** The drafting instructions would amend ss. 48.355 (4), 48.357 (6), 48.365 (5), 938.355 (4) (a) and (b), 938.357 (6), and 938.365 (5) to provide that a dispositional order, which currently must be extended every year, continues until the child reaches 18 years of age unless terminated sooner. The concern expressed is that with a permanency plan review scheduled every six months, a permanency plan hearing scheduled every 12 months, and an extension hearing scheduled every 12 months and with all of those time periods starting from different starting points, the court would be required to hold at least two or three hearings annually for a child, which would increase the chances of missed time limits.

This draft accomplishes those instructions, but distinguishes in-home placements from out-of-home placements because, as noted earlier, not every dispositional order

results in an out-of-home placement. Accordingly, the draft provides that for out-of-home placements the order continues until the child is 18 years old unless the court specifies a shorter period of time or terminates the order sooner. For an in-home placement, an order would continue to terminate after one year, unless extended, as under current law.

Similarly, the draft addresses the issue of duplication of six-month permanency plan reviews and 12-month permanency plan hearings in ss. 48.38 (5) (a) and 938.38 (5) (a) by requiring that the permanency plan review be conducted six months after the child is removed from the home and every 12 months after that review and that the permanency plan hearing be conducted 12 months after the child is removed from the home and every 12 months after that hearing. As such, the six-month reviews and the annual hearings will not overlap, but rather will alternate.

5. **Reasonable-efforts findings.** The drafting instructions would delete from s. 48.355 (2) (b) 6. and 938.355 (2) (b) 6. the reference to making reasonable efforts to return the child to the home and would replace that reference with a reference to achieving the goal of the permanency plan on the theory that the general category of achieving the goal of the permanency plan includes the specific goal of returning the child to the home and, therefore, the reference to returning the child to the home is unnecessary.

The draft adds the reference to achieving the goal of the permanency plan, but provides an exception for when the goal of the permanency plan is to return the child to the home and one of the aggravated circumstances specified in s. 48.355 (2d) (b) 1. to 5. or 938.355 (2d) (b) 1. to 4. applies. The draft provides that exception because those aggravated circumstances only excuse the agency from making reasonable efforts to return the child to the home; they do not excuse the agency from making reasonable efforts to achieve other permanency plan goals such as adoption.

Also, with respect to the permanency plan hearing that is required to be held not more than 30 days after a finding that reasonable efforts to return the child to the home are not required, the draft specifies that the child's foster parent must receive notice and an opportunity to be heard at the hearing as required under 45 CFR 1356.21 (o). See ss. 48.21 (5) (d), 48.32 (1) (c), 48.355 (2d) (c), 48.357 (2v) (c), 938.21 (5) (d), 938.32 (1) (d), 938.355 (2d) (c), and 48.357 (2v) (c), as created by the draft.

6. **Minor variations.** The draft also makes a couple of other minor variations from the drafting instructions. Specifically:

a. **Trial home visits.** The drafting instructions provide that trial home visits of less than six months are not counted in determining whether the child has been out of the home for 15 of the most recent 22 months. 45 CFR 1356.21 (e), however, permits a trial home visit to last for more than six months if authorized by the court. Accordingly, the draft excludes trial home visits of more than six months that are authorized by the court as well as trial home visits of less than six months in counting those 15 months. See ss. 48.365 (2g) (b) 3., 48.38 (5) (c) 6. (intro.), 48.417 (1) (a), 938.365 (2g) (b) 3., and 938.38 (5) (c) 6. (intro.), as affected by the draft.

b. **Child placed in the home of a relative.** The drafting instructions specify in s. 48.38 (2) (intro.) and 938.38 (2) (intro.) that the agency that placed or arranged the placement

of a child in the home of a relative *either under court order or a voluntary placement agreement* must prepare a permanency plan for the child. The draft does not include the court order or voluntary placement agreement language in ss. 48.38 (2) (intro.) and 938.38 (2) (intro.) because those requirements are already covered in ss. 48.38 (2) (c) and (d) and 938.38 (2) (c) and (d). As such, the qualifying language is unnecessary.

Also, on the effective date of the draft there will already be children placed in the homes of relatives for whom permanency plans must be prepared. Accordingly, the draft includes a nonstatutory transitional provision, SECTION 9123 (1), that provides a timeline for preparing permanency plans for those children. That timeline was based on similar language found in the 2001-02 budget bill, 2001 SB-55, SECTION 9123 (1).

7. Technical cleanups. Finally, in addition to the language changes requested by DHFS, the draft makes the following technical cleanups to chs. 48 and 938:

a. *Foster parent statements.* The draft amends ss. 48.27 (3) (a) 1m., 48.38 (5) (b), 48.42 (2g), 48.427 (1m), 938.27 (3) (a) 1m., and 938.38 (5) (b) to require a statement made by a foster parent at a CHIPS or TPR hearing or at a permanency plan review to be made under oath or affirmation. A similar requirement already exists for such statements made at a change-of-placement, revision, or extension hearing under s. 48.357 (2r), 48.363 (1m), 48.365 (2m) (ag), 938.357 (2r), 938.363 (1m), or 938.365 (2m) (ag).

b. *Aggravated circumstances — judgment of conviction.* Currently, ss. 48.355 (2d) (b) (intro.) and 938.355 (2d) (b) (intro.) refer to certain findings in the subdivisions that follow them *as evidenced by a final judgment of conviction*. Not all of the subdivisions that follow them, however, reference criminal convictions. For example, ss. 48.355 (2d) (b) 4. and 938.355 (2d) (b) 4. reference a TPR. The draft amends ss. 48.355 (2d) (b) (intro.), 1., 2., 3., 4., and 5. and 938.355 (2d) (b) (intro.), 1., 2., 3., and 4. to specify in each of those subdivisions whether the finding must be evidenced by a judgment of conviction or some other final judgment.

c. *Payment for child's care.* Sections 48.38 (2) (f) and 938.38 (2) (f) require a permanency plan to be prepared if the child's care is paid for under s. 49.19, which is the former AFDC program. The draft amends that qualification to require a permanency plan to be prepared if the child's care *would be* paid for under s. 49.19, *but for* the fact that the program no longer exists.

d. *Permanency plan review.* Finally, the draft creates 48.38 (5) (c) 6. cg. and d. so that that subdivision parallels s. 48.38 (4) (fg), as created by the draft.

If as you review this draft you have any questions about the draft or about any of the issues raised in this drafter's note, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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Senator Robson:

When the DHFS legal and program staff review this draft, they should note all of the following:

1. ***Physical custody hearings and orders.*** In ss. 48.21 (3) (am) and 938.21 (2) (am) and (3) (am) the drafting instructions would eliminate the requirement that a parent or juvenile who has waived his or her right to participate in the physical custody hearing be granted a rehearing on request. The draft does not eliminate that requirement because eliminating that requirement would contradict ss. 48.21 (1) (a) and 938.21 (1) (a), which require a parent who is not present at the hearing to be granted a rehearing on request, and ss. 48.21 (3) (e) and 938.21 (2) (e) and (3) (e), which permit a parent or juvenile who is not represented by counsel at the hearing to request a rehearing and which provide that any custody order is subject to rehearing on good cause shown.

Also, in ss. 48.21 (5) (b) 1. and 938.21 (5) (b) 1. the draft requires the court to include in a custody order not only a finding that reasonable efforts to prevent the removal of the child from the home were made but also a finding that continued placement of the child in the home would be contrary to the welfare of the child and a finding that reasonable efforts were made to return the child to the home. The draft requires the contrary-to-welfare finding because 45 CFR 1356.21 (c) requires that finding to be made in the first court ruling that sanctions, even temporarily, the removal of a child from the home. The draft requires the reasonable efforts to return the child to the home finding because s. 48.20 (2) (ag) and (7) (b) and 938.20 (2) (ag) and (7) (b) require the person who took the child into custody and the intake worker to make every effort to release the child to his or her parents.

In addition, in ss. 48.21 (5) (b) 1. and 938.21 (5) (b) 1. the draft does not require that the contrary-to-welfare and reasonable-efforts findings be made within 60 days after the child is removed from the home because current ss. 48.21 (1) (a) and 938.21 (1) (a) already require the custody hearing to be held within 48 hours after the child is taken into custody, not including Saturdays, Sundays, and legal holidays, with one 72-hour extension permitted. Instead, that 60-day time limit is covered in ss. 48.315 (2m) and 938.315 (2m), as created by the draft, relating to time limits.

2. ***Documentation of judicial findings.*** The drafting instructions would require the CHIPS, JIPS, delinquency, or civil law or ordinance violation petition under s.

48.255 or 938.255 to allege the factual basis for the contrary-to-welfare and reasonable-efforts findings. The draft does not require the petition to make those allegations because not every petition results in an out-of-home placement. Also, even if the disposition does ultimately result in an out-of-home placement, it would be premature to make those allegations at the petition stage before the case has been fully investigated and a permanency plan determined. Accordingly, the draft instead requires the agency to include that factual basis in the court report under ss. 48.33 and 938.33 and to present evidence as to that factual basis at the dispositional hearing under ss. 48.335 and 938.335.

Also, the federal regulations prohibit "nunc pro tunc" orders, which literally means "now for then" orders. Rather than draft a Latin term that nobody understands, the draft translates that term to mean "an amended order that retroactively corrects an earlier order" that does not comply with the federal requirements.

3. **Time limits.** In s. 48.315 (2m), which prohibits extensions, continuances, and periods of delay that would result in the court making the contrary-to-welfare and reasonable-efforts findings more than 60 days after the child is removed from the home or in the court finalizing the permanency plan more than 12 months after the child is removed from the home, the draft includes a provision that is similar to s. 938.315 (3) under current law clarifying that a failure to meet those time limits does not deprive the court of jurisdiction or of competency to exercise that jurisdiction and providing the court with flexibility in fashioning remedies for a failure to meet those time limits, such as dismissing the proceeding with or without prejudice, ordering the release of the child, or granting such other relief as the court considers appropriate.

The draft includes that provision because, under current law, failure to meet a time limit results in the court losing competency to proceed, which in turn results in the child being returned to the home, without regard to whether the home is safe. This draconian remedy does not serve to protect children; instead it only serves to punish the child for the error of the district attorney. With the inflexible time limits mandated by the federal regulations, some fail-safe mechanism is necessary to protect children in those rare, but inevitable, cases in which a time limit is missed through no fault of the child. Indeed, you might wish to consider drafting a provision in s. 48.315 that is similar to s. 938.315 (3) to protect children in all cases of missed time limits and not just those cases covered in this draft.

4. **Termination of orders.** The drafting instructions would amend ss. 48.355 (4), 48.357 (6), 48.365 (5), 938.355 (4) (a) and (b), 938.357 (6), and 938.365 (5) to provide that a dispositional order, which currently must be extended every year, continues until the child reaches 18 years of age unless terminated sooner. The concern expressed is that with a permanency plan review scheduled every six months, a permanency plan hearing scheduled every 12 months, and an extension hearing scheduled every 12 months and with all of those time periods starting from different starting points, the court would be required to hold at least two or three hearings annually for a child, which would increase the chances of missed time limits.

This draft accomplishes those instructions, but distinguishes in-home placements from out-of-home placements because, as noted earlier, not every dispositional order

results in an out-of-home placement. Accordingly, the draft provides that for out-of-home placements the order continues until the child is 18 years old unless the court specifies a shorter period of time or terminates the order sooner. For an in-home placement, an order would continue to terminate after one year, unless extended, as under current law.

Similarly, the draft addresses the issue of duplication of six-month permanency plan reviews and 12-month permanency plan hearings in ss. 48.38 (5) (a) and 938.38 (5) (a) by requiring that the permanency plan review be conducted six months after the child is removed from the home and every 12 months after that review and that the permanency plan hearing be conducted 12 months after the child is removed from the home and every 12 months after that hearing. As such, the six-month reviews and the annual hearings will not overlap, but rather will alternate.

5. Reasonable-efforts findings. The drafting instructions would delete from s. 48.355 (2) (b) 6. and 938.355 (2) (b) 6. the reference to making reasonable efforts to return the child to the home and would replace that reference with a reference to achieving the goal of the permanency plan on the theory that the general category of achieving the goal of the permanency plan includes the specific goal of returning the child to the home and, therefore, the reference to returning the child to the home is unnecessary.

The draft adds the reference to achieving the goal of the permanency plan, but provides an exception for when the goal of the permanency plan is to return the child to the home and one of the aggravated circumstances specified in s. 48.355 (2d) (b) 1. to 5. or 938.355 (2d) (b) 1. to 4. applies. The draft provides that exception because those aggravated circumstances only excuse the agency from making reasonable efforts to return the child to the home; they do not excuse the agency from making reasonable efforts to achieve other permanency plan goals such as adoption.

Also, with respect to the permanency plan hearing that is required to be held not more than 30 days after a finding that reasonable efforts to return the child to the home are not required, the draft specifies that the child's foster parent must receive notice and an opportunity to be heard at the hearing as required under 45 CFR 1356.21 (o). See ss. 48.21 (5) (d), 48.32 (1) (c), 48.355 (2d) (c), 48.357 (2v) (c), 938.21 (5) (d), 938.32 (1) (d), 938.355 (2d) (c), and 48.357 (2v) (c), as created by the draft.

6. Minor variations. The draft also makes a couple of other minor variations from the drafting instructions. Specifically:

a. *Trial home visits.* The drafting instructions provide that trial home visits of less than six months are not counted in determining whether the child has been out of the home for 15 of the most recent 22 months. 45 CFR 1356.21 (e), however, permits a trial home visit to last for more than six months if authorized by the court. Accordingly, the draft excludes trial home visits of more than six months that are authorized by the court as well as trial home visits of less than six months in counting those 15 months. See ss. 48.365 (2g) (b) 3., 48.38 (5) (c) 6. (intro.), 48.417 (1) (a), 938.365 (2g) (b) 3., and 938.38 (5) (c) 6. (intro.), as affected by the draft.

b. *Child placed in the home of a relative.* The drafting instructions specify in s. 48.38 (2) (intro.) and 938.38 (2) (intro.) that the agency that placed or arranged the placement

of a child in the home of a relative *either under court order or a voluntary placement agreement* must prepare a permanency plan for the child. The draft does not include the court order or voluntary placement agreement language in ss. 48.38 (2) (intro.) and 938.38 (2) (intro.) because those requirements are already covered in ss. 48.38 (2) (c) and (d) and 938.38 (2) (c) and (d). As such, the qualifying language is unnecessary.

Also, on the effective date of the draft there will already be children placed in the homes of relatives for whom permanency plans must be prepared. Accordingly, the draft includes a nonstatutory transitional provision, SECTION 9123 (1), that provides a timeline for preparing permanency plans for those children. That timeline was based on similar language found in the 2001-02 budget bill, 2001 SB-55, SECTION 9123 (1).

7. Technical cleanups. Finally, in addition to the language changes requested by DHFS, the draft makes the following technical cleanups to chs. 48 and 938:

a. *Foster parent statements.* The draft amends ss. 48.27 (3) (a) 1m., 48.38 (5) (b), 48.42 (2g), 48.427 (1m), 938.27 (3) (a) 1m., and 938.38 (5) (b) to require a statement made by a foster parent at a CHIPS or TPR hearing or at a permanency plan review to be made under oath or affirmation. A similar requirement already exists for such statements made at a change-of-placement, revision, or extension hearing under s. 48.357 (2r), 48.363 (1m), 48.365 (2m) (ag), 938.357 (2r), 938.363 (1m), or 938.365 (2m) (ag).

b. *Aggravated circumstances — judgment of conviction.* Currently, ss. 48.355 (2d) (b) (intro.) and 938.355 (2d) (b) (intro.) refer to certain findings in the subdivisions that follow them *as evidenced by a final judgment of conviction*. Not all of the subdivisions that follow them, however, reference criminal convictions. For example, ss. 48.355 (2d) (b) 4. and 938.355 (2d) (b) 4. reference a TPR. The draft amends ss. 48.355 (2d) (b) (intro.), 1., 2., 3., 4., and 5. and 938.355 (2d) (b) (intro.), 1., 2., 3., and 4. to specify in each of those subdivisions whether the finding must be evidenced by a judgment of conviction or some other final judgment.

c. *Payment for child's care.* Sections 48.38 (2) (f) and 938.38 (2) (f) require a permanency plan to be prepared if the child's care is paid for under s. 49.19, which is the former AFDC program. The draft amends that qualification to require a permanency plan to be prepared if the child's care *would be* paid for under s. 49.19, *but for* the fact that the program no longer exists.

d. *Permanency plan review.* Finally, the draft creates 48.38 (5) (c) 6. cg. and d. so that that subdivision parallels s. 48.38 (4) (fg), as created by the draft.

If as you review this draft you have any questions about the draft or about any of the issues raised in this drafter's note, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

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