

2001 DRAFTING REQUEST

Bill

Received: **09/12/2000**

Received By: **malaigm**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Fossum**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Alt. Drafters:

Subject: **Children - out-of-home placement**

Extra Copies:

Pre Topic:

DOA:.....Fossum -

Topic:

Court-ordered relative placement permanency plans

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 09/12/2000	gilfokm 09/19/2000					S&L
/1			martykr 09/20/2000		lrb_docadmin 09/20/2000		S&L
/2	malaigm 01/08/2001	gilfokm 01/08/2001	jfrantze 01/09/2001		lrb_docadmin 01/09/2001		S&L
/3	malaigm 01/12/2001	jdyer 01/12/2001	rschluet 01/14/2001		lrb_docadmin 01/14/2001		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketcd</u>	<u>Required</u>
/4	malaigm 01/31/2001	gilfokm 02/01/2001	jfrantze 02/02/2001	_____	lrb_docadmin 02/02/2001		

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Court-ordered ~~kinship care~~ *relative placement* permanency plans

Instructions:

See Attached

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14-2/11- 2/2 2/2 KM 2/2

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DOA:.....Fossum -

Topic:

Court-ordered kinship care permanency plans

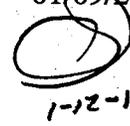
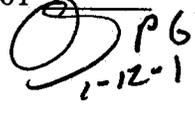
Instructions:

See Attached

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/1			martykr 09/20/2000		lrb_docadmin 09/20/2000		S&L
/2	malaigm 01/08/2001	gilfokm 01/08/2001	jfrantze 01/09/2001		lrb_docadmin 01/09/2001		

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13 1/2 jld



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1		12-1/8-01 King	martykr 09/20/2000		lrb_docadmin 09/20/2000		

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Handwritten signatures and initials: Jb/1/9, Jb/Sh, 1/9, and <END>

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Drafter: malaigm

May Contact:

Alt. Drafters:

Subject: Children - out-of-home placement

Extra Copies: Jason Witt, DHFS

Pre Topic:

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Instructions:

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1/?	malaigm	1/11-9-18-2000 kmf	km/20	JF 9 km/20			

FE Sent For:

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Title: Court-Ordered Kinship Care

Current Language

s. 48.38(2)

Proposed Change

Revise the statute so that permanency plan requirements apply to children in court-ordered Kinship Care.

Effect of the Change

Children in court-ordered kinship care will be afforded the same level of services and attention to permanency planning as child welfare children in other out-of-home placements.

Rationale for the Change

Currently permanency plan requirements apply to children in all out-of-home placement settings (foster care, child caring institutions, etc.) other than court-ordered Kinship Care. For equity and programmatic reasons, children in Kinship Care settings should receive the same level of services and attention to permanency planning as child welfare children in other settings. The proposed change is expected to facilitate the movement towards permanency of Kinship Care cases. In the long-run, the proposed change is expected to decrease costs in the Kinship Care program because the average length of stay in court-ordered Kinship Care should decrease.

Desired Effective Date:	Upon enactment
Agency:	DHFS
Agency Contact:	Jason Witt
Phone:	266-9364



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-02647

GMM...
kmg

note

soon

DOA:.....Fossum - Court-ordered kinship care permanency plans

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

DO NOT
Gen. Act.

1

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, for each child living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility, whether under a voluntary agreement or under an order of the court assigned to exercise jurisdiction under the children's code and the juvenile justice code (juvenile court), the agency that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child under the juvenile court order must prepare a written permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. This bill requires a permanency plan to be prepared for a child who, under a juvenile court order, is living in the home of a relative who is receiving payments under the kinship care program for providing care and maintenance for the child.

*

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.38 (2) (intro.) of the statutes is amended to read:

2 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
3 for each child living in a foster home, treatment foster home, group home,
4 child-caring institution, secure detention facility, or shelter care facility or in the
5 home of a kinship care relative, as defined in s. 48.40 (1m), the agency that placed
6 the child or arranged the placement or the agency assigned primary responsibility
7 for providing services to the child under s. 48.355 shall prepare a written
8 permanency plan, if one of the following conditions exists:

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149.

9 **SECTION 2.** 48.38 (4) (f) (intro.) of the statutes is amended to read:

10 48.38 (4) (f) (intro.) The services that will be provided to the child, the child's
11 family, and the child's foster parent, the child's treatment foster parent or the
12 operator of the facility where the child is living, or the kinship care relative with
13 whom the child is living to carry out the dispositional order, including services
14 planned to accomplish all of the following:

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149.

15 **SECTION 3.** 48.38 (5) (a) of the statutes is amended to read:

16 48.38 (5) (a) The court or a panel appointed under this paragraph shall review
17 the permanency plan every 6 months from the date on which the child was first held
18 in physical custody or placed outside of his or her home under a court order. If the
19 court elects not to review the permanency plan, the court shall appoint a panel to
20 review the permanency plan. The panel shall consist of 3 persons who are either
21 designated by an independent agency that has been approved by the chief judge of
22 the judicial administrative district or designated by the agency that prepared the
23 permanency plan. A voting majority of persons on each panel shall be persons who

1 are not employed by the agency that prepared the permanency plan and who are not
2 responsible for providing services to the child or the parents of the child whose
3 permanency plan is the subject of the review.

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149.

4 **SECTION 4. 48.38 (5) (b)** of the statutes is amended to read:

5 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
6 child if he or she is 12 years of age or older² and the child's foster parent, the child's
7 treatment foster parent ~~or~~, the operator of the facility in which the child is living, or
8 the kinship care relative with whom the child is living of the date, time² and place of
9 the review, of the issues to be determined as part of the review, [✓] of the fact that they
10 may have an opportunity to be heard at the review by submitting ^{AND} written comments
11 not less than 10 working days before the review [✓] or by participating at the review.
12 The court or agency shall notify the person representing the interests of the public,
13 the child's counsel, the child's guardian ad litem¹ and the child's court-appointed
14 special advocate of the date of the review, of the issues to be determined as part of
15 the review¹ and of the fact that they may submit written comments not less than 10
16 working days before the review. The notices under this paragraph shall be provided
17 in writing not less than 30 days before the review and copies of the notices shall be
18 filed in the child's case record.

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149.

19 **SECTION 5. 938.38 (2) (intro.)** of the statutes is amended to read:

20 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
21 for each juvenile living in a foster home, treatment foster home, group home, child
22 caring institution, secure detention facility, or shelter care facility [✓] or in the home of
23 a kinship care relative, as defined in s. 48.40 (1m), the agency that placed the

1 juvenile or arranged the placement or the agency assigned primary responsibility for
2 providing services to the juvenile under s. 938.355 shall prepare a written
3 permanency plan, if any of the following conditions exists:

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

4 **SECTION 6.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

5 938.38 (4) (f) (intro.) The services that will be provided to the juvenile, the
6 juvenile's family, and the juvenile's foster parent, the juvenile's treatment foster
7 parent ~~or~~, the operator of the facility where the juvenile is living, or the kinship care
8 relative with whom the juvenile is living to carry out the dispositional order,
9 including services planned to accomplish all of the following:

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

10 **SECTION 7.** 938.38 (5) (a) of the statutes is amended to read:

11 938.38 (5) (a) The court or a panel appointed under this paragraph shall review
12 the permanency plan every 6 months from the date on which the juvenile was first
13 held in physical custody or placed outside of his or her home under a court order. If
14 the court elects not to review the permanency plan, the court shall appoint a panel
15 to review the permanency plan. The panel shall consist of 3 persons who are either
16 designated by an independent agency that has been approved by the chief judge of
17 the judicial administrative district or designated by the agency that prepared the
18 permanency plan. A voting majority of persons on each panel shall be persons who
19 are not employed by the agency that prepared the permanency plan and who are not
20 responsible for providing services to the juvenile or the parents of the juvenile whose
21 permanency plan is the subject of the review.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

22 **SECTION 8.** 938.38 (5) (b) of the statutes is amended to read:

23 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
24 the juvenile if he or she is 10 years of age or older, and the juvenile's foster parent,

1 the juvenile's treatment foster parent ~~or~~, the operator of the facility in which the
 2 juvenile is living, or the kinship care relative with whom the juvenile is living of the
 3 date, time, and place of the review, of the issues to be determined as part of the review, and
 4 of the fact that they may have an opportunity to be heard at the review by submitting
 5 written comments not less than 10 working days before the review or by
 6 participating at the review. The court or agency shall notify the person representing
 7 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
 8 of the date of the review, of the issues to be determined as part of the review, and of
 9 the fact that they may submit written comments not less than 10 working days before
 10 the review. The notices under this paragraph shall be provided in writing not less
 11 than 30 days before the review and copies of the notices shall be filed in the juvenile's
 12 case record.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9.

13 **SECTION 9123. Nonstatutory provisions; health and family services.**

14 (1) COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. Notwithstanding sections
 15 48.38 (3) and 938.38 (3) of the statutes, for a child or a juvenile who is living in the
 16 home of a kinship care relative, as defined in section 48.40 (1m) of the statutes, under
 17 an order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
 18 the statutes, as affected by this act, on the day before the effective date of this
 19 subsection, the agency assigned primary responsibility for providing services to the
 20 child or juvenile under section 48.355 or 938.355 of the statutes shall file a
 21 permanency plan with that court within 60 days after the effective date of this
 22 ~~section~~ ^{subsection}. Notwithstanding section 48.38 (5) (a) of the statutes, as affected by this act,
 23 and section 938.38 (5) (a) of the statutes, as affected by this act, a permanency plan

SECTION 9123

1 filed under this subsection shall be reviewed within 6 months after the effective date
2 of this subsection.

3 **SECTION 9323. Initial applicability; health and family services.**

4 (1) COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. The treatment of sections
5 48.38 (2) (intro.), (4) (f) (intro.) and (5) (a) and (b) and 938.38 (2) (intro.), (4) (f) (intro.)
6 and (5) (a) and (b) of the statutes first applies to a child or juvenile who is placed in
7 the home of a kinship care relative, as defined in section 48.40 (1m) of the statutes,
8 by order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
9 the statutes, as affected by this act, on the effective date of this subsection.

10 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB01-0264/6dn

GMM.....

King

1

Gretchen and Jason:

Here are a couple of things to think about as you review this draft:

1. The Initial Applicability provision of this draft clarifies that the statutory changes made by the draft first apply to a child who is placed with a kinship care relative by court order on the effective date of the draft. The provision, however, does not account for the children who are placed with a kinship care relative by court order *before* the effective date of the draft. Accordingly, the draft also includes a Nonstatutory Provision that requires a permanency plan to be filed for those children within 60 days after the effective date of the draft. That 60-day deadline, however, might not be practicable if there is a huge backlog of children who are currently placed in kinship care by court order. If that is the case, another alternative might be to provide for a rolling deadline, that is, require permanency plans to be filed for ~~one-third~~ of the children by 60 days after the effective date, for another ~~one-third~~ of the ~~child~~ by 120 days after the effective date, and for the remaining children by 180 days after the effective date. If the rolling deadline option is chosen, we could also require the agency to give priority to the children who have been in out-of-home care the longest.

one-third children

2. This draft, in addition to requiring permanency plans for children in court-ordered kinship care, also conforms ss. 48.38 (5) (a) and 938.38 (5) (a) to ss. 48.38 (3) and 938.38 (3) by requiring a permanency plan review within six months after the child is placed outside the home by a court order. The effect of omitting "by a court order" from ss. 48.38 (5) (a) and 938.38 (5) (a) under current law is to require a permanency plan review for a child who is in a voluntary placement, but that yields an absurd result because under s. 48.63 (1) a child in a voluntary placement must either go home after six months or have a CHIPS petition filed for him or her if the placement is to be extended beyond six months. In either case, a permanency plan review for such a child is moot either because the child has gone home or because a CHIPS proceeding has commenced, in which case the child's placement will be reviewed in the course of the CHIPS proceeding. Moreover, it is absurd to require the court to review the permanency plan of a child who was not placed by court order because the court would have no knowledge of the child. Accordingly, this draft makes this remedial clarification. If you feel that this change is beyond the scope of this draft, please advise and I will delete it.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB01-0264/1dn
GMM:kmg:km

September 19, 2000

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2. This draft, in addition to requiring permanency plans for children in court-ordered kinship care, also conforms ss. 48.38 (5) (a) and 938.38 (5) (a) to ss. 48.38 (3) and 938.38 (3) by requiring a permanency plan review within six months after the child is placed outside the home by a court order. The effect of omitting "by a court order" from ss. 48.38 (5) (a) and 938.38 (5) (a) under current law is to require a permanency plan review for a child who is in a voluntary placement, but that yields an absurd result because under s. 48.63 (1) a child in a voluntary placement must either go home after six months or have a CHIPS petition filed for him or her if the placement is to be extended beyond six months. In either case, a permanency plan review for such a child is moot either because the child has gone home or because a CHIPS proceeding has commenced, in which case the child's placement will be reviewed in the course of the CHIPS proceeding. Moreover, it is absurd to require the court to review the permanency plan of a child who was not placed by court order because the court would have no knowledge of the child. Accordingly, this draft makes this remedial clarification. If you feel that this change is beyond the scope of this draft, please advise and I will delete it.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

Malaise, Gordon

From: Fossum, Gretchen
Sent: Monday, January 08, 2001 8:48 AM
To: Malaise, Gordon
Subject: LRB Fraft 0264/1 Court-ordered kinship care permanency plans

Gordon:

Please revise LRB draft 0264/1, court-ordered kinship care permanency plans to provided for the rolling deadline you suggested in your drafter's note. The remainder of the draft is ok.

Gretchen A. Fossum
State Budget Office
January 8, 2001



State of Wisconsin
2001-2002 LEGISLATURE

500

LRB-0264/1
GMM:kmg:km

DOA:.....Fossum – Court-ordered kinship care permanency plans .

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>DON'T
SEN. CAT.</sup> relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, for each child living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility, whether under a voluntary agreement or under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court), the agency that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child under the juvenile court order must prepare a written permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. This bill requires a permanency plan to be prepared for a child who, under a juvenile court order, is living in the home of a relative who is receiving payments under the kinship care program for providing care and maintenance for the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1

1 **SECTION 1.** 48.38 (2) (intro.) of the statutes is amended to read:

2 48.38 (2) **PERMANENCY PLAN REQUIRED.** (intro.) Except as provided in sub. (3),
3 for each child living in a foster home, treatment foster home, group home,
4 child-caring institution, secure detention facility, or shelter care facility or in the
5 home of a kinship care relative, as defined in s. 48.40 (1m), the agency that placed
6 the child or arranged the placement or the agency assigned primary responsibility
7 for providing services to the child under s. 48.355 shall prepare a written
8 permanency plan, if one of the following conditions exists:

9 **SECTION 2.** 48.38 (4) (f) (intro.) of the statutes is amended to read:

10 48.38 (4) (f) (intro.) The services that will be provided to the child, the child's
11 family, and the child's foster parent, the child's treatment foster parent ~~or~~, the
12 operator of the facility where the child is living, or the kinship care relative with
13 whom the child is living to carry out the dispositional order, including services
14 planned to accomplish all of the following:

15 **SECTION 3.** 48.38 (5) (a) of the statutes is amended to read:

16 48.38 (5) (a) The court or a panel appointed under this paragraph shall review
17 the permanency plan every 6 months from the date on which the child was first held
18 in physical custody or placed outside of his or her home under a court order. If the
19 court elects not to review the permanency plan, the court shall appoint a panel to
20 review the permanency plan. The panel shall consist of 3 persons who are either
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22 the judicial administrative district or designated by the agency that prepared the
23 permanency plan. A voting majority of persons on each panel shall be persons who
24 are not employed by the agency that prepared the permanency plan and who are not

1 responsible for providing services to the child or the parents of the child whose
2 permanency plan is the subject of the review.

3 **SECTION 4.** 48.38 (5) (b) of the statutes is amended to read:

4 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
5 child if he or she is 12 years of age or older, and the child's foster parent, the child's
6 treatment foster parent ~~or~~, the operator of the facility in which the child is living, or
7 the kinship care relative with whom the child is living of the date, time, and place
8 of the review, of the issues to be determined as part of the review, and of the fact that
9 they may have an opportunity to be heard at the review by submitting written
10 comments not less than 10 working days before the review or by participating at the
11 review. The court or agency shall notify the person representing the interests of the
12 public, the child's counsel, the child's guardian ad litem, and the child's
13 court-appointed special advocate of the date of the review, of the issues to be
14 determined as part of the review, and of the fact that they may submit written
15 comments not less than 10 working days before the review. The notices under this
16 paragraph shall be provided in writing not less than 30 days before the review and
17 copies of the notices shall be filed in the child's case record.

18 **SECTION 5.** 938.38 (2) (intro.) of the statutes is amended to read:

19 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
20 for each juvenile living in a foster home, treatment foster home, group home, child
21 caring institution, secure detention facility, or shelter care facility or in the home of
22 a kinship care relative, as defined in s. 48.40 (1m), the agency that placed the juvenile
23 or arranged the placement or the agency assigned primary responsibility for
24 providing services to the juvenile under s. 938.355 shall prepare a written
25 permanency plan, if any of the following conditions exists:

SECTION 6

1 **SECTION 6.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

2 938.38 (4) (f) (intro.) The services that will be provided to the juvenile, the
3 juvenile's family, and the juvenile's foster parent, the juvenile's treatment foster
4 parent ~~or~~, the operator of the facility where the juvenile is living, or the kinship care
5 relative with whom the juvenile is living to carry out the dispositional order,
6 including services planned to accomplish all of the following:

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

8 938.38 (5) (a) The court or a panel appointed under this paragraph shall review
9 the permanency plan every 6 months from the date on which the juvenile was first
10 held in physical custody or placed outside of his or her home under a court order. If
11 the court elects not to review the permanency plan, the court shall appoint a panel
12 to review the permanency plan. The panel shall consist of 3 persons who are either
13 designated by an independent agency that has been approved by the chief judge of
14 the judicial administrative district or designated by the agency that prepared the
15 permanency plan. A voting majority of persons on each panel shall be persons who
16 are not employed by the agency that prepared the permanency plan and who are not
17 responsible for providing services to the juvenile or the parents of the juvenile whose
18 permanency plan is the subject of the review.

19 **SECTION 8.** 938.38 (5) (b) of the statutes is amended to read:

20 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
21 the juvenile if he or she is 10 years of age or older, and the juvenile's foster parent,
22 the juvenile's treatment foster parent ~~or~~, the operator of the facility in which the
23 juvenile is living, or the kinship care relative with whom the juvenile is living of the
24 date, time, and place of the review, of the issues to be determined as part of the review,
25 and of the fact that they may have an opportunity to be heard at the review by

1 submitting written comments not less than 10 working days before the review or by
 2 participating at the review. The court or agency shall notify the person representing
 3 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
 4 of the date of the review, of the issues to be determined as part of the review, and of
 5 the fact that they may submit written comments not less than 10 working days before
 6 the review. The notices under this paragraph shall be provided in writing not less
 7 than 30 days before the review and copies of the notices shall be filed in the juvenile's
 8 case record.

children or juveniles who are

SECTION 9123. Nonstatutory provisions; health and family services.

(1) COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. Notwithstanding sections
 11 48.38 (3) and 938.38 (3) of the statutes, ~~for a child or a juvenile who is~~ living in the
 12 home of a kinship care relative, as defined in section 48.40 (1m) of the statutes, under
 13 an order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
 14 the statutes, as affected by this act, on the day before the effective date of this
 15 subsection, the agency assigned primary responsibility for providing services to ~~the~~
 16 ~~child or juvenile~~ those children or juveniles under section 48.355 or 938.355 of the statutes shall file a
 17 permanency plan with that court ~~within 60 days after the effective date of this~~
 18 ~~subsection.~~ Notwithstanding section 48.38 (5) (a) of the statutes, as affected by this
 19 act, and section 938.38 (5) (a) of the statutes, as affected by this act, a permanency
 20 plan filed under this subsection shall be reviewed within 6 months after ~~the effective~~
 21 ~~date of this subsection.~~ the date on which the permanency plan is filed

Insert
S-18

SECTION 9323. Initial applicability; health and family services.

(1) COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. The treatment of sections
 24 48.38 (2) (intro.), (4) (f) (intro.), and (5) (a) and (b) and 938.38 (2) (intro.), (4) (f) (intro.),
 25 and (5) (a) and (b) of the statutes first applies to a child or juvenile who is placed in

1 the home of a kinship care relative, as defined in section 48.40 (1m) of the statutes,
2 by order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
3 the statutes, as affected by this act, on the effective date of this subsection.

4 (END)

Insert 5-18 ✓

with respect to not less than 33% of those children or juveniles by November 1, 2001, with respect to not less than 67% of those children or juveniles by January 1, 2002, and with respect to all of those children or juveniles by March 1, 2002, giving priority to those children or juveniles who have been living in the home of a kinship care relative for the longest period of time

(ed of act)

Malaise, Gordon

From: Fossum, Gretchen
Sent: Friday, January 12, 2001 12:13 PM
To: Malaise, Gordon
Subject: LRB 0264/2, Court-ordered kinship care permanency plans

Gordon:

Please make the following change to LRB 0264/2:

Amend the second sentence under s. 48.62(2) to read:

"The department, county department or licensed child welfare agency as provided in s. 48.75 ~~may~~ shall issue a license to operate a foster home . . ."

If you have any questions on this request please contact me at 266-2288.

Gretchen A. Fossum
State Budget Office
January 12, 2001



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0264/13
GMM:kmg:jf PNR
Ejld

ban

DOA:.....Fossum – Court-ordered kinship care permanency plans
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Do not gen

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
CHILDREN

Under current law, for each child living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility, whether under a voluntary agreement or under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court), the agency that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child under the juvenile court order must prepare a written permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. This bill requires a permanency plan to be prepared for a child who, under a juvenile court order, is living in the home of a relative who is receiving payments under the kinship care program for providing care and maintenance for the child.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

✓
Insert
A

1 **SECTION 1.** 48.38 (2) (intro.) of the statutes is amended to read:

2 48.38 (2) **PERMANENCY PLAN REQUIRED.** (intro.) Except as provided in sub. (3),
3 for each child living in a foster home, treatment foster home, group home,
4 child-caring institution, secure detention facility, or shelter care facility or in the
5 home of a kinship care relative, as defined in s. 48.40 (1m), the agency that placed
6 the child or arranged the placement or the agency assigned primary responsibility
7 for providing services to the child under s. 48.355 shall prepare a written
8 permanency plan, if one of the following conditions exists:

9 **SECTION 2.** 48.38 (4) (f) (intro.) of the statutes is amended to read:

10 48.38 (4) (f) (intro.) The services that will be provided to the child, the child's
11 family, and the child's foster parent, the child's treatment foster parent ~~or~~, the
12 operator of the facility where the child is living, or the kinship care relative with
13 whom the child is living to carry out the dispositional order, including services
14 planned to accomplish all of the following:

15 **SECTION 3.** 48.38 (5) (a) of the statutes is amended to read:

16 48.38 (5) (a) The court or a panel appointed under this paragraph shall review
17 the permanency plan every 6 months from the date on which the child was first held
18 in physical custody or placed outside of his or her home under a court order. If the
19 court elects not to review the permanency plan, the court shall appoint a panel to
20 review the permanency plan. The panel shall consist of 3 persons who are either
21 designated by an independent agency that has been approved by the chief judge of
22 the judicial administrative district or designated by the agency that prepared the
23 permanency plan. A voting majority of persons on each panel shall be persons who
24 are not employed by the agency that prepared the permanency plan and who are not

1 responsible for providing services to the child or the parents of the child whose
2 permanency plan is the subject of the review.

3 **SECTION 4.** 48.38 (5) (b) of the statutes is amended to read:

4 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
5 child if he or she is 12 years of age or older, and the child's foster parent, the child's
6 treatment foster parent ~~or~~, the operator of the facility in which the child is living, or
7 the kinship care relative with whom the child is living of the date, time, and place
8 of the review, of the issues to be determined as part of the review, and of the fact that
9 they may have an opportunity to be heard at the review by submitting written
10 comments not less than 10 working days before the review or by participating at the
11 review. The court or agency shall notify the person representing the interests of the
12 public, the child's counsel, the child's guardian ad litem, and the child's
13 court-appointed special advocate of the date of the review, of the issues to be
14 determined as part of the review, and of the fact that they may submit written
15 comments not less than 10 working days before the review. The notices under this
16 paragraph shall be provided in writing not less than 30 days before the review and
17 copies of the notices shall be filed in the child's case record.

18 **SECTION 5.** 938.38 (2) (intro.) of the statutes is amended to read:

19 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
20 for each juvenile living in a foster home, treatment foster home, group home, child
21 caring institution, secure detention facility, or shelter care facility or in the home of
22 a kinship care relative, as defined in s. 48.40 (1m), the agency that placed the juvenile
23 or arranged the placement or the agency assigned primary responsibility for
24 providing services to the juvenile under s. 938.355 shall prepare a written
25 permanency plan, if any of the following conditions exists:

✓
Insert
3-17
→

1 **SECTION 6.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

2 938.38 (4) (f) (intro.) The services that will be provided to the juvenile, the
3 juvenile's family, and the juvenile's foster parent, the juvenile's treatment foster
4 parent ~~or~~, the operator of the facility where the juvenile is living, or the kinship care
5 relative with whom the juvenile is living to carry out the dispositional order,
6 including services planned to accomplish all of the following:

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

8 938.38 (5) (a) The court or a panel appointed under this paragraph shall review
9 the permanency plan every 6 months from the date on which the juvenile was first
10 held in physical custody or placed outside of his or her home under a court order. If
11 the court elects not to review the permanency plan, the court shall appoint a panel
12 to review the permanency plan. The panel shall consist of 3 persons who are either
13 designated by an independent agency that has been approved by the chief judge of
14 the judicial administrative district or designated by the agency that prepared the
15 permanency plan. A voting majority of persons on each panel shall be persons who
16 are not employed by the agency that prepared the permanency plan and who are not
17 responsible for providing services to the juvenile or the parents of the juvenile whose
18 permanency plan is the subject of the review.

19 **SECTION 8.** 938.38 (5) (b) of the statutes is amended to read:

20 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
21 the juvenile if he or she is 10 years of age or older, and the juvenile's foster parent,
22 the juvenile's treatment foster parent ~~or~~, the operator of the facility in which the
23 juvenile is living, or the kinship care relative with whom the juvenile is living of the
24 date, time, and place of the review, of the issues to be determined as part of the review,
25 and of the fact that they may have an opportunity to be heard at the review by

1 submitting written comments not less than 10 working days before the review or by
2 participating at the review. The court or agency shall notify the person representing
3 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
4 of the date of the review, of the issues to be determined as part of the review, and of
5 the fact that they may submit written comments not less than 10 working days before
6 the review. The notices under this paragraph shall be provided in writing not less
7 than 30 days before the review and copies of the notices shall be filed in the juvenile's
8 case record.

9 **SECTION 9123. Nonstatutory provisions; health and family services.**

10 (1) COURT-ORDERED KINSHIP CARE PERMANENCY PLANS. Notwithstanding sections
11 48.38 (3) and 938.38 (3) of the statutes, for children or juveniles who are living in the
12 home of a kinship care relative, as defined in section 48.40 (1m) of the statutes, under
13 an order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
14 the statutes, as affected by this act, on the day before the effective date of this
15 subsection, the agency assigned primary responsibility for providing services to
16 those children or juveniles under section 48.355 or 938.355 of the statutes shall file
17 a permanency plan with that court with respect to not less than 33% of those children
18 or juveniles by November 1, 2001, with respect to not less than 67% of those children
19 or juveniles by January 1, 2002, and with respect to all of those children or juveniles
20 by March 1, 2002, giving priority to those children or juveniles who have been living
21 in the home of a kinship care relative for the longest period of time. Notwithstanding
22 section 48.38 (5) (a) of the statutes, as affected by this act, and section 938.38 (5) (a)
23 of the statutes, as affected by this act, a permanency plan filed under this subsection
24 shall be reviewed within 6 months after the date on which the permanency plan is
25 filed.

Insert 3-17

Section #. 48.62 (2) of the statutes is amended to read:

shall (2) a j a 2 ✓
 48.62 (2) A relative, as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a) or a guardian of
 a child, who provides care and maintenance for a child, is not required to obtain the license specified
 in this section. The department, county department or licensed child welfare agency as provided
 in s. 48.75 may issue a license to operate a foster home or a treatment foster home to a relative who
 has no duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster home or
 treatment foster home for a specific child who is either placed by court order or who is the subject
 of a voluntary placement agreement under s. 48.63. The department, a county department or a
 licensed child welfare agency may, at the request of a guardian appointed under s. 48.977 or 48.978
 or ch. 880, license the guardian's home as a foster home or treatment foster home for the guardian's
 minor ward who is living in the home and who is placed in the home by court order. Relatives with
 no duty of support and guardians appointed under s. 48.977 or 48.978 or ch. 880 who are licensed
 to operate foster homes or treatment foster homes are subject to the department's licensing rules.

History: 1977 c. 354 s. 101; 1977 c. 418, 447; 1981 c. 20; 1985 a. 29 s. 3202 (23); 1985 a. 176, 281, 332, 403; 1989
 a. 31, 336; 1993 a. 395 ss. 31m, 39; 1993 a. 437 s. 67; 1993 a. 446 ss. 79 to 82, 134m; 1993 a. 491; 1995 a. 275; 1997
 a. 27, 334; 1999 a. 9.

(Cardlynett)

Insert A

¶ Under current law, on the request of a grandparent in whose home a grandchild whose parent is under 18 years of age is placed, DHS, a county department of human services or social services (county department), or a licensed child welfare agency may license that grandparent as a foster parent or treatment foster parent. This bill requires DHS, a county department, or a licensed child welfare agency to license such a grandparent as a foster parent or treatment foster parent on the request of the grandparent.

(end of part)

Malaise, Gordon

From: Fossum, Gretchen
Sent: Wednesday, January 31, 2001 10:46 AM
To: Malaise, Gordon
Subject: LRB Draft 264/3

Please make the following changes to draft 264/3, Court-ordered kinship care permanency plans:

1. The permanency plan requirement should apply to all relatives who are caring for related children under court order. Where appropriate reference the definition of a relative under s. 48.02(15) or s. 938.02(15).
2. On page 4, line 6 change the word "may" to "shall".

If you have any questions on these changes, please contact me at 266-2288.

Gretchen A. Fossum
State Budget Office
January 31, 2001



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0264/3

GMM:kmg:rs

(4) RMR

D Note

soon

DOA:.....Fossum - Court-ordered ~~kinship care~~ permanency plans

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

child

relative placement

*
Fip request sheet

GPS:
These initials should have been added on

1

AN ACT ^{DON'T GEN. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, for each child living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility, whether under a voluntary agreement or under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court), the agency that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child under the juvenile court order must prepare a written permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. This bill requires a permanency plan to be prepared for a child who, under a juvenile court order, is living in the home of a relative ~~who is receiving payments under the kinship care program for providing care and maintenance for the child.~~ whether under a voluntary agreement or a juvenile court order,

Under current law, on the request of a grandparent in whose home a grandchild whose parent is under 18 years of age is placed, DHFS, a county department of human services or social services (county department), or a licensed child welfare agency may license that grandparent as a foster parent or treatment foster parent. This bill requires DHFS, a county department, or a licensed child welfare agency to

the grandchild's

rough copy; add them now

Insert A.

the grandchild's

license such a grandparent as a foster parent or treatment foster parent on the request of the grandparent.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.38 (2) (intro.) of the statutes is amended to read:

2 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
3 for each child living in a foster home, treatment foster home, group home,
4 child-caring institution, secure detention facility, or shelter care facility or in the
5 home of a ~~kinship care~~ relative as defined in s. 48.40 (1m), the agency that placed
6 the child or arranged the placement or the agency assigned primary responsibility
7 for providing services to the child under s. 48.355 shall prepare a written
8 permanency plan, if one of the following conditions exists:

9 **SECTION 2.** 48.38 (4) (f) (intro.) of the statutes is amended to read:

10 48.38 (4) (f) (intro.) The services that will be provided to the child, the child's
11 family, and the child's foster parent, the child's treatment foster parent ~~or~~, the
12 operator of the facility where the child is living, or the ~~kinship care~~ relative with
13 whom the child is living to carry out the dispositional order, including services
14 planned to accomplish all of the following:

15 **SECTION 3.** 48.38 (5) (a) of the statutes is amended to read:

16 48.38 (5) (a) The court or a panel appointed under this paragraph shall review
17 the permanency plan every 6 months from the date on which the child was first held
18 in physical custody or placed outside of his or her home under a court order. If the
19 court elects not to review the permanency plan, the court shall appoint a panel to
20 review the permanency plan. The panel shall consist of 3 persons who are either

1 designated by an independent agency that has been approved by the chief judge of
2 the judicial administrative district or designated by the agency that prepared the
3 permanency plan. A voting majority of persons on each panel shall be persons who
4 are not employed by the agency that prepared the permanency plan and who are not
5 responsible for providing services to the child or the parents of the child whose
6 permanency plan is the subject of the review.

7 **SECTION 4.** 48.38 (5) (b) of the statutes is amended to read:

8 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
9 child if he or she is 12 years of age or older, and the child's foster parent, the child's
10 treatment foster parent ~~or~~, the operator of the facility in which the child is living, or
11 the kinship care relative with whom the child is living of the date, time, and place
12 of the review, of the issues to be determined as part of the review, and of the fact that
13 they may have an opportunity to be heard at the review by submitting written
14 comments not less than 10 working days before the review or by participating at the
15 review. The court or agency shall notify the person representing the interests of the
16 public, the child's counsel, the child's guardian ad litem, and the child's
17 court-appointed special advocate of the date of the review, of the issues to be
18 determined as part of the review, and of the fact that they may submit written
19 comments not less than 10 working days before the review. The notices under this
20 paragraph shall be provided in writing not less than 30 days before the review and
21 copies of the notices shall be filed in the child's case record.

22 **SECTION 5.** 48.62 (2) of the statutes is amended to read:

23 48.62 (2) A relative, as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a),
24 or a guardian of a child, who provides care and maintenance for a child, is not
25 required to obtain the license specified in this section. The department, a county

1 department, or a licensed child welfare agency as provided in s. 48.75 ~~may~~ shall issue
 2 a license to operate a foster home or a treatment foster home to a relative who has
 3 no duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster
 4 home or treatment foster home for a specific child who is either placed by court order
 5 or who is the subject of a voluntary placement agreement under s. 48.63. The
 6 department, a county department, or a licensed child welfare agency ~~may~~, at the
 7 request of a guardian appointed under s. 48.977 or 48.978 or ch. 880, license the
 8 guardian's home as a foster home or treatment foster home for the guardian's minor
 9 ward who is living in the home and who is placed in the home by court order.
 10 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978
 11 or ch. 880 who are licensed to operate foster homes or treatment foster homes are
 12 subject to the department's licensing rules.

13 **SECTION 6.** 938.38 (2) (intro.) of the statutes is amended to read:

14 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
 15 for each juvenile living in a foster home, treatment foster home, group home, child
 16 caring institution, secure detention facility, or shelter care facility or in the home of
 17 ~~a kinship care relative, as defined in s. 48.40 (1)(m),~~ the agency that placed the juvenile
 18 or arranged the placement or the agency assigned primary responsibility for
 19 providing services to the juvenile under s. 938.355 shall prepare a written
 20 permanency plan, if any of the following conditions exists:

21 **SECTION 7.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

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

1 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 8.** 938.38 (5) (a) of the statutes is amended to read:

4 938.38 (5) (a) The court or a panel appointed under this paragraph shall review
5 the permanency plan every 6 months from the date on which the juvenile was first
6 held in physical custody or placed outside of his or her home under a court order. If
7 the court elects not to review the permanency plan, the court shall appoint a panel
8 to review the permanency plan. The panel shall consist of 3 persons who are either
9 designated by an independent agency that has been approved by the chief judge of
10 the judicial administrative district or designated by the agency that prepared the
11 permanency plan. A voting majority of persons on each panel shall be persons who
12 are not employed by the agency that prepared the permanency plan and who are not
13 responsible for providing services to the juvenile or the parents of the juvenile whose
14 permanency plan is the subject of the review.

15 **SECTION 9.** 938.38 (5) (b) of the statutes is amended to read:

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

1 the fact that they may submit written comments not less than 10 working days before
 2 the review. The notices under this paragraph shall be provided in writing not less
 3 than 30 days before the review and copies of the notices shall be filed in the juvenile's
 4 case record.

48.52(15) or 938.52(15)

5 **SECTION 9123. Nonstatutory provisions; health and family services.**

RELATIVE PLACEMENT

6 (1) COURT-ORDERED ~~KINSHIP CARE~~ PERMANENCY PLANS. Notwithstanding sections
 7 48.38 (3) and 938.38 (3) of the statutes, for children or juveniles who are living in the
 8 home of a ~~kinship care~~ relative, as defined in section ~~48.40(1m)~~ of the statutes, under
 9 an order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
 10 the statutes, as affected by this act, on the day before the effective date of this
 11 subsection, the agency assigned primary responsibility for providing services to
 12 those children or juveniles under section 48.355 or 938.355 of the statutes shall file
 13 a permanency plan with that court with respect to not less than 33% of those children
 14 or juveniles by November 1, 2001, with respect to not less than 67% of those children
 15 or juveniles by January 1, 2002, and with respect to all of those children or juveniles
 16 by March 1, 2002, giving priority to those children or juveniles who have been living
 17 in the home of a ~~kinship care~~ relative for the longest period of time. Notwithstanding
 18 section 48.38 (5) (a) of the statutes, as affected by this act, and section 938.38 (5) (a)
 19 of the statutes, as affected by this act, a permanency plan filed under this subsection
 20 shall be reviewed within 6 months after the date on which the permanency plan is
 21 filed.

22 **SECTION 9323. Initial applicability; health and family services.**

RELATIVE PLACEMENT

23 (1) COURT-ORDERED ~~PERMANENCY~~ PERMANENCY PLANS. The treatment of sections
 24 48.38 (2) (intro.), (4) (f) (intro.), and (5) (a) and (b) and 938.38 (2) (intro.), (4) (f) (intro.),
 25 and (5) (a) and (b) of the statutes first applies to a child or juvenile who is placed in

7-
48.02 (15) or 938.02 (15)

1) the home of a ~~kinship~~ ~~care~~ relative, as defined in section ~~48.40 (15)~~ of the statutes,
2 by order of the court assigned to exercise jurisdiction under chapters 48 and 938 of
3 the statutes, as affected by this act, on the effective date of this subsection.

(END)

DNote

Gretchen:

It is not necessary to cross-reference the definitions
~~of "relative" in chs. 48 and 938 because~~
in chs. 48 and 938, the ~~the~~ definitions of "relative"
found at ss. 48.02 (15) and 938.02 (15) because
those definitions apply universally in those chapters
unless otherwise defined. See ss. 48.02⁰² (intro)
and 938.02 (intro). Accordingly, this draft
supplies those cross-references ^{only} in the
nonstatutory provisions^f of the drafts.

GMM

(Insert A)

(no #)

Similarly, ^{on} the request of a guardian in whose home
a minor ward is placed ^{under a} juvenile court order, DHFS,
a county department, or a licensed child welfare agency
may license that guardian as ^{the ward's} a foster parent or
treatment foster parent. This bill requires DHFS,
a county department, or a licensed child welfare
agency to license such a guardian ^{the ward's} as a foster
parent ^{or} treatment foster parent ^{on} the request of the
guardian.

(End of insert)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0264/4dn
GMM:lmg&jld:jf

February 2, 2001

Gretchen:

It is not necessary to cross-reference, in chs. 48 and 938, the definitions of "relative" found at ss. 48.02 (15) and 938.02 (15) because those definitions apply universally in those chapters unless otherwise defined. See ss. 48.02 (intro.) and 938.02 (intro.). Accordingly, this draft supplies those cross-references only in the nonstatutory provisions of the draft.

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0264/4
GMM:kmg&jld:jf

DOA:.....Fossum – Court-ordered relative placement permanency plans
FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, for each child living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility, whether under a voluntary agreement or under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court), the agency that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child under the juvenile court order must prepare a written permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever appropriate or that the child quickly attains a placement or home providing long-term stability. This bill requires a permanency plan to be prepared for a child who, under a juvenile court order, is living in the home of a relative.

Under current law, on the request of a grandparent in whose home a grandchild whose parent is under 18 years of age is placed, whether under a voluntary agreement or under a juvenile court order, DHFS, a county department of human services or social services (county department), or a licensed child welfare agency may license that grandparent as the grandchild's foster parent or treatment foster parent. This bill requires DHFS, a county department, or a licensed child welfare agency to license such a grandparent as the grandchild's foster parent or treatment

foster parent on the request of the grandparent. Similarly, on the request of a guardian in whose home a minor ward is placed under a juvenile court order, DHFS, a county department, or a licensed child welfare agency may license that guardian as the ward's foster parent or treatment foster parent. This bill requires DHFS, a county department, or a licensed child welfare agency to license such a guardian as the ward's foster parent or treatment foster parent on the request of the guardian.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.38 (2) (intro.) of the statutes is amended to read:

2 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
3 for each child living in a foster home, treatment foster home, group home,
4 child-caring institution, secure detention facility, or shelter care facility or in the
5 home of a relative, the agency that placed the child or arranged the placement or the
6 agency assigned primary responsibility for providing services to the child under s.
7 48.355 shall prepare a written permanency plan, if one of the following conditions
8 exists:

9 **SECTION 2.** 48.38 (4) (f) (intro.) of the statutes is amended to read:

10 48.38 (4) (f) (intro.) The services that will be provided to the child, the child's
11 family, and the child's foster parent, the child's treatment foster parent ~~or~~, the
12 operator of the facility where the child is living, or the relative with whom the child
13 is living to carry out the dispositional order, including services planned to accomplish
14 all of the following:

15 **SECTION 3.** 48.38 (5) (a) of the statutes is amended to read:

16 48.38 (5) (a) The court or a panel appointed under this paragraph shall review
17 the permanency plan every 6 months from the date on which the child was first held
18 in physical custody or placed outside of his or her home under a court order. If the

1 court elects not to review the permanency plan, the court shall appoint a panel to
2 review the permanency plan. The panel shall consist of 3 persons who are either
3 designated by an independent agency that has been approved by the chief judge of
4 the judicial administrative district or designated by the agency that prepared the
5 permanency plan. A voting majority of persons on each panel shall be persons who
6 are not employed by the agency that prepared the permanency plan and who are not
7 responsible for providing services to the child or the parents of the child whose
8 permanency plan is the subject of the review.

9 **SECTION 4.** 48.38 (5) (b) of the statutes is amended to read:

10 48.38 (5) (b) The court or the agency shall notify the parents of the child, the
11 child if he or she is 12 years of age or older, and the child's foster parent, the child's
12 treatment foster parent ~~or~~, the operator of the facility in which the child is living, or
13 the relative with whom the child is living of the date, time, and place of the review,
14 of the issues to be determined as part of the review, and of the fact that they may have
15 an opportunity to be heard at the review by submitting written comments not less
16 than 10 working days before the review or by participating at the review. The court
17 or agency shall notify the person representing the interests of the public, the child's
18 counsel, the child's guardian ad litem, and the child's court-appointed special
19 advocate of the date of the review, of the issues to be determined as part of the review,
20 and of the fact that they may submit written comments not less than 10 working days
21 before the review. The notices under this paragraph shall be provided in writing not
22 less than 30 days before the review and copies of the notices shall be filed in the child's
23 case record.

24 **SECTION 5.** 48.62 (2) of the statutes is amended to read:

SECTION 5

1 48.62 (2) A relative, as defined in s. 48.02 (15) or as specified in s. 49.19 (1) (a),
2 or a guardian of a child, who provides care and maintenance for a child, is not
3 required to obtain the license specified in this section. The department, a county
4 department, or a licensed child welfare agency as provided in s. 48.75 ~~may~~ shall issue
5 a license to operate a foster home or a treatment foster home to a relative who has
6 no duty of support under s. 49.90 (1) (a) and who requests a license to operate a foster
7 home or treatment foster home for a specific child who is either placed by court order
8 or who is the subject of a voluntary placement agreement under s. 48.63. The
9 department, a county department, or a licensed child welfare agency ~~may~~ shall, at
10 the request of a guardian appointed under s. 48.977 or 48.978 or ch. 880, license the
11 guardian's home as a foster home or treatment foster home for the guardian's minor
12 ward who is living in the home and who is placed in the home by court order.
13 Relatives with no duty of support and guardians appointed under s. 48.977 or 48.978
14 or ch. 880 who are licensed to operate foster homes or treatment foster homes are
15 subject to the department's licensing rules.

16 **SECTION 6.** 938.38 (2) (intro.) of the statutes is amended to read:

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

24 **SECTION 7.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

1 938.38 (4) (f) (intro.) The services that will be provided to the juvenile, the
2 juvenile's family, and the juvenile's foster parent, the juvenile's treatment foster
3 parent ~~or~~, the operator of the facility where the juvenile is living, or the relative with
4 whom the juvenile is living to carry out the dispositional order, including services
5 planned to accomplish all of the following:

6 **SECTION 8.** 938.38 (5) (a) of the statutes is amended to read:

7 938.38 (5) (a) The court or a panel appointed under this paragraph shall review
8 the permanency plan every 6 months from the date on which the juvenile was first
9 held in physical custody or placed outside of his or her home under a court order. If
10 the court elects not to review the permanency plan, the court shall appoint a panel
11 to review the permanency plan. The panel shall consist of 3 persons who are either
12 designated by an independent agency that has been approved by the chief judge of
13 the judicial administrative district or designated by the agency that prepared the
14 permanency plan. A voting majority of persons on each panel shall be persons who
15 are not employed by the agency that prepared the permanency plan and who are not
16 responsible for providing services to the juvenile or the parents of the juvenile whose
17 permanency plan is the subject of the review.

18 **SECTION 9.** 938.38 (5) (b) of the statutes is amended to read:

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

1 participating at the review. The court or agency shall notify the person representing
2 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
3 of the date of the review, of the issues to be determined as part of the review, and of
4 the fact that they may submit written comments not less than 10 working days before
5 the review. The notices under this paragraph shall be provided in writing not less
6 than 30 days before the review and copies of the notices shall be filed in the juvenile's
7 case record.

8 **SECTION 9123. Nonstatutory provisions; health and family services.**

9 (1) COURT-ORDERED RELATIVE PLACEMENT PERMANENCY PLANS. Notwithstanding
10 sections 48.38 (3) and 938.38 (3) of the statutes, for children or juveniles who are
11 living in the home of a relative, as defined in section 48.02 (15) or 938.02 (15) of the
12 statutes, under an order of the court assigned to exercise jurisdiction under chapters
13 48 and 938 of the statutes, as affected by this act, on the day before the effective date
14 of this subsection, the agency assigned primary responsibility for providing services
15 to those children or juveniles under section 48.355 or 938.355 of the statutes shall
16 file a permanency plan with that court with respect to not less than 33% of those
17 children or juveniles by November 1, 2001, with respect to not less than 67% of those
18 children or juveniles by January 1, 2002, and with respect to all of those children or
19 juveniles by March 1, 2002, giving priority to those children or juveniles who have
20 been living in the home of a relative for the longest period of time. Notwithstanding
21 section 48.38 (5) (a) of the statutes, as affected by this act, and section 938.38 (5) (a)
22 of the statutes, as affected by this act, a permanency plan filed under this subsection
23 shall be reviewed within 6 months after the date on which the permanency plan is
24 filed.

25 **SECTION 9323. Initial applicability; health and family services.**

