



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1290/11
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NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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AN ACT to renumber and amend 48.02 (2c), 115.76 (4) and 938.02 (2c); and to amend 46.03 (22) (a), 46.10 (14) (b), 46.261 (1) (a), 46.261 (2) (a) 3., 46.261 (2) (a) 4., 46.261 (2) (b), 48.33 (4) (intro.), 48.345 (3) (d), 48.371 (1), 48.371 (3) (intro.), 48.371 (3) (a), 48.371 (3) (b), 48.371 (3) (c), 48.371 (3) (d), 48.38 (2) (intro.), 48.48 (17) (c) 4., 48.57 (3) (a) 4., 48.60 (4) (b), 48.60 (5) (a) (intro.), 48.615 (1) (a), 48.68 (2), 48.68 (3), 48.68 (4), 48.745 (1), 48.745 (2), 48.745 (3), 48.981 (1) (am) 5., 48.981 (2), 49.19 (1) (a) 2. b., 49.19 (10) (b), 49.19 (10) (c), 49.19 (10) (d), 49.19 (10) (e), 70.11 (19), 115.762 (3) (g), 115.81 (1) (b), 115.81 (2), 115.81 (3) (a), 115.81 (3) (b) 2. b., 115.81 (4) (intro.), 115.81 (4) (a) 3., 115.81 (4) (a) 4., 115.81 (4) (a) 5., 115.81 (4) (b) 1., 115.81 (4) (b) 2., 115.81 (4) (b) 3., 115.81 (4) (b) 4., 115.81 (4) (b) 5., 146.82 (2) (a) 18m., 252.15 (5) (a) 19., 301.08 (1) (b) 3., 301.12 (14) (b), 301.26 (4) (d) 2., 301.26 (4) (d) 3., 301.26 (4) (d) 4., 767.29 (3) (b), 938.02 (15g), 938.02 (19r), 938.08 (3) (a) 1., 938.08 (3) (a) 2., 938.08 (3) (b), 938.33 (4) (intro.), 938.34 (3) (d), 938.34 (5) (am), 938.371 (1), 938.371 (3) (intro.), 938.371 (3) (a), 938.371 (3) (b), 938.371 (3) (c), 938.371 (3) (d), 938.38 (2) (intro.), 938.51

Law
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 (1d) (intro.), 938.51 (4) (intro.), 938.538 (3) (a) 1p., 938.539 (5), 938.57 (3) (a) 4.,
 938.78 (3) and 940.295 (2) (m) of the statutes; **relating to:** changing "child
 caring institution" to "residential care center for children and youth"
 (suggested as remedial legislation by the department of health and family
 services).

Analysis by the Legislative Reference Bureau

Under current law, a "child caring institution" is defined as a facility operated by a licensed child welfare agency for the care and maintenance of children residing in that facility. Current law requires a person who provides care and maintenance for 75 days in any consecutive 12-month period for four or more children at any one time to obtain a license to operate a child welfare agency from the department of health and family services. This bill changes the term "child caring institution" to "residential care center for children and youth."

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of health and family services and introduced by the law revision committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 46.03 (22) (a) of the statutes is amended to read:

46.03 (22) (a) "Community living arrangement" means any of the following
 facilities licensed or operated, or permitted under the authority of the department:
residential care centers for children and youth, as defined in s. 48.02 (15d), operated
by child welfare agencies licensed under s. 48.60, group homes for children under, as
defined in s. 48.02 (7), and community-based residential facilities under, as defined
in s. 50.01 (1g); but does not include adult family homes, as defined in s. 50.01 (1),

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1 day care centers, nursing homes, general hospitals, special hospitals, prisons, and
2 jails.

NOTE: This SECTION clarifies that it is a residential care center for children and youth operated by a child welfare agency, and not the agency operating the center, that is defined as a "community living arrangement" in s. 46.03 (22) (a), stats.

3 SECTION 2. 46.10 (14) (b) of the statutes is amended to read:

4 46.10 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
5 of a parent specified in sub. (2) or s. 46.03 (18) for the care and maintenance of the
6 parent's minor child who has been placed by a court order under s. 48.355 or 48.357
7 in a residential, nonmedical facility such as a group home, foster home, treatment
8 foster home or child caring institution, or residential care center for children and
9 youth shall be determined by the court by using the percentage standard established
10 by the department of workforce development under s. 49.22 (9) and by applying the
11 percentage standard in the manner established by the department under s. 46.247.

NOTE: SECTIONS 2 to 8, 10 to 18, 28 to 34, 35 to 64, and 68 to 80 change the term "child caring institution" to "residential care center for children and youth" to describe a facility operated by a licensed child welfare agency for the care and maintenance of children residing in that facility. Current law requires a person who provides care and maintenance for 75 days in any consecutive 12-month period for 4 or more children at any one time to obtain a license to operate a child welfare agency from the department of health and family services (DHFS). This change makes the term used in the statutes to describe those facilities consistent with the term used by other states, national organizations, professionals in the child welfare field, and DHFS to describe those facilities.

12 SECTION 3. 46.261 (1) (a) of the statutes is amended to read:

13 46.261 (1) (a) The child is living in a foster home or treatment foster home
14 licensed under s. 48.62 if a license is required under that section, in a foster home
15 or treatment foster home located within the boundaries of a federally recognized
16 American Indian reservation in this state and licensed by the tribal governing body
17 of the reservation, in a group home licensed under s. 48.625, or in a child caring
18 institution residential care center for children and youth licensed under s. 48.60, and

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1 has been placed in the foster home, treatment foster home, group home ~~or institution,~~
2 or center by a county department under s. 46.215, 46.22 or 46.23, by the department,
3 or by a federally recognized American Indian tribal governing body in this state
4 under an agreement with a county department under s. 46.215, 46.22 or 46.23.

5 **SECTION 4.** 46.261 (2) (a) 3. of the statutes is amended to read:

6 46.261 (2) (a) 3. A county or, in a county having a population of 500,000 or more,
7 the department, when the child is placed in a licensed foster home, treatment foster
8 home, group home ~~or child caring institution,~~ or residential care center for children
9 and youth by a licensed child welfare agency or by a federally recognized American
10 Indian tribal governing body in this state or by its designee, if the child is in the legal
11 custody of the county department under s. 46.215, 46.22 or 46.23 or the department
12 under s. 48.48 (17) or if the child was removed from the home of a relative, as defined
13 under s. 48.02 (15), as a result of a judicial determination that continuance in the
14 home of the relative would be contrary to the child's welfare for any reason and the
15 placement is made pursuant to an agreement with the county department or the
16 department.

17 **SECTION 5.** 46.261 (2) (a) 4. of the statutes is amended to read:

18 46.261 (2) (a) 4. A licensed foster home, treatment foster home, group home ~~or~~
19 ~~child caring institution,~~ or residential care center for children and youth when the
20 child is in the custody or guardianship of the state, when the child is a ward of an
21 American Indian tribal court in this state and the placement is made under an
22 agreement between the department and the tribal governing body, or when the child
23 was part of the state's direct service case load and was removed from the home of a
24 relative, as defined under s. 48.02 (15), as a result of a judicial determination that

1 continuance in the home of a relative would be contrary to the child's welfare for any
2 reason and the child is placed by the department.

3 **SECTION 6.** 46.261 (2) (b) of the statutes is amended to read:

4 46.261 (2) (b) Notwithstanding par. (a), aid under this section may not be
5 granted for placement of a child in a foster home or treatment foster home licensed
6 by a federally recognized American Indian tribal governing body, for placement of a
7 child in a foster home, treatment foster home ~~or child caring institution, or~~
8 residential care center for children and youth by a tribal governing body or its
9 designee, for the placement of a child who is a ward of a tribal court if the tribal
10 governing body is receiving or is eligible to receive funds from the federal government
11 for that type of placement, or for placement of a child in a group home licensed under
12 s. 48.625.

13 **SECTION 7.** 48.02 (2c) of the statutes is renumbered 48.02 (15d) and amended
14 to read:

15 48.02 (15d) ~~"Child caring institution"~~ "Residential care center for children and
16 youth" means a facility operated by a child welfare agency licensed under s. 48.60 for
17 the care and maintenance of children residing in that facility.

18 **SECTION 8.** 48.33 (4) (intro.) of the statutes is amended to read:

19 48.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
20 placement of an adult expectant mother outside of her home shall be in writing. A
21 report recommending placement of a child in a foster home, treatment foster home,
22 group home ~~or child caring institution, or residential care center for children and~~
23 youth shall be in writing and shall include all of the following:

24 **SECTION 9.** 48.345 (3) (d) of the statutes is amended to read:

operated by a child welfare agency

plain

1 48.345 (3) (d) A residential ~~treatment center~~ care center for children and youth

2 licensed under s. 48.60.

clarifies that it is the child welfare agency operating the residential treatment center, and not the residential

NOTE: This SECTION ~~changes the term "residential treatment center" to "residential care center for children and youth"~~ to describe a facility operated by a licensed child treatment welfare agency for the care and maintenance of children residing in that facility center itself, that is licensed under s.

48.60

3 SECTION 10. 48.371 (1) of the statutes is amended to read:

4 48.371 (1) If a child is placed in a foster home, treatment foster home, group
5 home or ~~child caring institution~~, or residential care center for children and youth,
6 including a placement under s. 48.205 or 48.21, the agency, as defined in s. 48.38 (1)
7 (a), that placed the child or arranged for the placement of the child shall provide the
8 following information to the foster parent, treatment foster parent, or operator of the
9 group home or ~~child caring institution~~ residential care center for children and youth
10 at the time of placement or, if the information has not been provided to the agency
11 by that time, as soon as possible after the date on which the agency receives that
12 information, but not more than 2 working days after that date:

13 (a) Results of a test or a series of tests of the child to determine the presence
14 of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an
15 antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results included
16 in a court report or permanency plan. At the time that the test results are provided,
17 the agency shall notify the foster parent, treatment foster parent, or operator of the
18 group home or ~~child caring institution~~ residential care center for children and youth
19 of the confidentiality requirements under s. 252.15 (6).

20 (b) Results of any tests of the child to determine the presence of viral hepatitis,
21 type B, including results included in a court report or permanency plan. The foster
22 parent, treatment foster parent, or operator of a group home or ~~child caring~~

1 ~~institution~~ residential care center for children and youth receiving information
2 under this paragraph shall keep the information confidential.

3 (c) Any other medical information concerning the child that is necessary for the
4 care of the child. The foster parent, treatment foster parent, or operator of a group
5 home or ~~child caring institution~~ residential care center for children and youth
6 receiving information under this paragraph shall keep the information confidential.

7 **SECTION 11.** 48.371 (3) (intro.) of the statutes is amended to read:

8 48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment
9 foster home, group home or ~~child caring institution,~~ or residential care center for
10 children and youth or, if the information is not available at that time, as soon as
11 possible after the date on which the court report or permanency plan has been
12 submitted, but no later than 7 days after that date, the agency, as defined in s. 48.38
13 (1) (a), responsible for preparing the child's permanency plan shall provide to the
14 foster parent, treatment foster parent, or operator of the group home or ~~child caring~~
15 ~~institution~~ residential care center for children and youth information contained in
16 the court report submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or
17 48.837 (4) (c) or permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c)
18 or (5) (c), 48.63 (4) or 48.831 (4) (e) relating to findings or opinions of the court or
19 agency that prepared the court report or permanency plan relating to any of the
20 following:

21 **SECTION 12.** 48.371 (3) (a) of the statutes is amended to read:

22 48.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral
23 disability of the child. The foster parent, treatment foster parent, or operator of a
24 group home or ~~child caring institution~~ residential care center for children and youth
25 receiving information under this subsection shall keep the information confidential.

1 **SECTION 13.** 48.371 (3) (b) of the statutes is amended to read:

2 48.371 (3) (b) Any involvement of the child in any criminal gang, as defined in
3 s. 939.22 (9), or in any other group in which any child was traumatized as a result
4 of his or her association with that group. The foster parent, treatment foster parent,
5 or operator of a group home or ~~child caring institution~~ residential care center for
6 children and youth receiving information under this paragraph shall keep the
7 information confidential.

8 **SECTION 14.** 48.371 (3) (c) of the statutes is amended to read:

9 48.371 (3) (c) Any involvement of the child in any activities that are harmful
10 to the child's physical, mental, or moral well-being. The foster parent, treatment
11 foster parent, or operator of a group home or ~~child caring institution~~ residential care
12 center for children and youth receiving information under this paragraph shall keep
13 the information confidential.

14 **SECTION 15.** 48.371 (3) (d) of the statutes is amended to read:

15 48.371 (3) (d) Any involvement of the child, whether as victim or perpetrator,
16 in sexual intercourse or sexual contact in violation of s. 940.225, 948.02, or 948.025,
17 prostitution in violation of s. 944.30, sexual exploitation of a child in violation of s.
18 948.05, or causing a child to view or listen to sexual activity in violation of s. 948.055,
19 if the information is necessary for the care of the child or for the protection of any
20 person living in the foster home, treatment foster home, group home or ~~child caring~~
21 ~~institution~~, or residential care center for children and youth. The foster parent,
22 treatment foster parent, or operator of a group home or ~~child caring institution~~
23 residential care center for children and youth receiving information under this
24 paragraph shall keep the information confidential.

25 **SECTION 16.** 48.38 (2) (intro.) of the statutes is amended to read:

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

8 **SECTION 17.** 48.48 (17) (c) 4. of the statutes is amended to read:

9 48.48 (17) (c) 4. Is living in a foster home, treatment foster home, group home
 10 ~~or child-caring institution,~~ or residential care center for children and youth.

11 **SECTION 18.** 48.57 (3) (a) 4. of the statutes is amended to read:

12 48.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home
 13 ~~or child-caring institution,~~ or residential care center for children and youth.

14 **SECTION 19.** 48.60 (4) (b) of the statutes is amended to read:

15 48.60 (4) (b) Notwithstanding ss. 121.78 (3) (a) and 121.79 (1) (a), a child
 16 welfare agency shall pay for the costs incurred by a school district in providing
 17 special education and related services to a child with a disability who ~~is a resident~~
 18 ~~of the residential care center for children and youth operated by a~~ ^{plain} child welfare
 19 agency, ~~if the child was placed in the child welfare agency residential care center for~~
 20 ~~children and youth pursuant to~~ ^{under} the interstate compact on the placement of children
 21 under s. 48.988. *deletes surplus language to clarify that a child welfare agency is liable for the costs incurred by a school*

NOTE: This SECTION clarifies that a child for whom a child welfare agency is providing care and maintenance is a resident of a residential care center for children and youth operated by the child welfare agency, and not of the child welfare agency operating the center.

22 **SECTION 20.** 48.60 (5) (a) (intro.) of the statutes is amended to read:

district in providing special education for a child with a disability who has been placed with the child welfare agency under the Interstate Compact on the Placement of Children.

1 48.60 (5) (a) (intro.) No later than 24 hours after the death of a child who
2 resided in a ~~building~~ residential care center for children and youth operated by a
3 child welfare agency, the child welfare agency shall report the death to the
4 department if one of the following applies:

NOTE: This SECTION and SECTION 21 eliminate vague references to a “building” operated by a child welfare agency and replaces those vague references with specific references to a “residential care center for children and youth” operated by a child welfare agency, which is the legally defined and professionally accepted term for a facility operated by a child welfare agency for the care and maintenance of children.

5 **SECTION 21.** 48.615 (1) (a) of the statutes is amended to read:

6 48.615 (1) (a) Before the department may issue a license under s. 48.60 (1) to
7 a child welfare agency that regularly provides care and maintenance for children
8 within the confines of its ~~building~~ a residential care center for children and youth
9 operated by the child welfare agency, the child welfare agency must pay to the
10 department a biennial fee of \$121, plus a biennial fee of \$18.15 per child, based on
11 the number of children that the child welfare agency is licensed to serve.

12 **SECTION 22.** 48.68 (2) of the statutes is amended to read:

13 48.68 (2) Before continuing the license of any child welfare agency ~~or to operate~~
14 a residential care center for children and youth or of any group home, the department
15 shall consider all formal complaints filed under s. 48.745 (2) and the disposition of
16 each during the previous 2-year period.

NOTE: This SECTION and SECTIONS 23 to 27 amend provisions relating to licensure of, and formal complaints regarding, child welfare agencies to clarify that those provisions apply to a residential care center for children and youth operated by a child welfare agency. It is obvious from the context of those provisions that they refer to a child welfare agency in its capacity as an operator of such a center and not in its capacity as a child-placing agency.

17 **SECTION 23.** 48.68 (3) of the statutes is amended to read:

18 48.68 (3) Within 10 working days after receipt of an application for initial
19 licensure of a child welfare agency ~~or to operate a residential care center for children~~

1 and youth or of a group home, the department shall notify the city, town, or village
2 planning commission, or other appropriate city, town, or village agency if there is no
3 planning commission, of receipt of the application. The department shall request
4 that the planning commission or agency send to the department, within 30 days, a
5 description of any specific hazards ~~which~~ that may affect the health and safety of the
6 residents of the ~~child welfare agency~~ residential care center for children and youth
7 or group home. No license may be issued to a child welfare agency ~~or~~ to operate a
8 residential care center for children and youth or to a group home until the 30-day
9 period has expired or until the department receives the response of the planning
10 commission or agency, whichever is sooner. In issuing a license the department shall
11 give full consideration to such hazards determined by the planning commission or
12 agency.

13 **SECTION 24.** 48.68 (4) of the statutes is amended to read:

14 48.68 (4) Prior to initial licensure of a residential ~~facility~~ care center for
15 children and youth operated by a child welfare agency or of a group home, the
16 applicant for licensure shall make a good faith effort to establish a community
17 advisory committee consisting of representatives from the child welfare agency or
18 proposed group home, the neighborhood in which the proposed residential ~~facility~~
19 care center for children and youth or group home will be located and a local unit of
20 government. The community advisory committee shall provide a forum for
21 communication for those persons interested in the proposed residential ~~facility~~ care
22 center for children and youth or group home. Any committee established under this
23 subsection shall continue in existence after licensure to make recommendations to
24 the licensee regarding the impact of the residential ~~facility~~ care center for children

1 and youth or group home on the neighborhood. The department shall determine
2 compliance with this subsection both prior to and after initial licensure.

3 **SECTION 25.** 48.745 (1) of the statutes is amended to read:

4 48.745 (1) If a complaint is received by a child welfare agency ~~or~~ operating a
5 residential care center for children and youth or by a group home, the licensee shall
6 attempt to resolve the complaint informally. Failing such resolution, the licensee
7 shall inform the complaining party of the procedure for filing a formal complaint
8 under this section.

9 **SECTION 26.** 48.745 (2) of the statutes is amended to read:

10 48.745 (2) Any individual may file a formal complaint under this section
11 regarding the general operation of a ~~child welfare agency~~ residential care center for
12 children and youth or group home and shall not be subject to reprisals for doing so.
13 All formal complaints regarding ~~child welfare agencies~~ residential care centers for
14 children and youth and group homes shall be filed with the county department on
15 forms supplied by the county department unless the county department designates
16 the department to receive formal complaints. The county department shall
17 investigate or cause to be investigated each formal complaint. Records of the results
18 of each investigation and the disposition of each formal complaint shall be kept by
19 the county department and filed with the subunit of the department ~~which~~ that
20 licenses ~~child welfare agencies~~ residential care centers for children and youth and
21 group homes.

22 **SECTION 27.** 48.745 (3) of the statutes is amended to read:

23 48.745 (3) Upon receipt of a formal complaint, the county department may
24 investigate the premises and records and question the licensee, staff, and residents
25 of the ~~child welfare agency~~ residential care center for children and youth or group

or residential care center for children and youth

1 home involved. The county department shall attempt to resolve the situation
2 through negotiation and other appropriate means.

3 **SECTION 28.** 48.981 (1) (am) 5. of the statutes is amended to read:

4 48.981 (1) (am) 5. An employee of a residential facility or ~~child-caring~~
5 ~~institution~~ residential care center for children and youth in which the child was or
6 is placed.

7 **SECTION 29.** 48.981 (2) of the statutes is amended to read:

8 48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical
9 examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or
10 mental health professional, social worker, marriage and family therapist,
11 professional counselor, public assistance worker, including a financial and
12 employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator, or
13 counselor, mediator under s. 767.11, child care worker in a day care center ~~or child~~
14 ~~caring institution~~, day care provider, alcohol or other drug abuse counselor, member
15 of the treatment staff employed by or working under contract with a county
16 department under s. 46.23, 51.42, or 51.437 or a residential care center for children
17 and youth, physical therapist, occupational therapist, dietitian, speech-language
18 pathologist, audiologist, emergency medical technician, first responder, or police or
19 law enforcement officer having reasonable cause to suspect that a child seen in the
20 course of professional duties has been abused or neglected or having reason to believe
21 that a child seen in the course of professional duties has been threatened with abuse
22 or neglect and that abuse or neglect of the child will occur shall, except as provided
23 under sub. (2m), report as provided in sub. (3). A court-appointed special advocate
24 having reasonable cause to suspect that a child seen in the course of the
25 court-appointed special advocate's activities under s. 48.236 (3) has been abused or

1 neglected or having reason to believe that a child seen in the course of those activities
2 has been threatened with abuse and neglect and that abuse or neglect of the child
3 will occur shall, except as provided in sub. (2m), report as provided in sub. (3). Any
4 other person, including an attorney, having reason to suspect that a child has been
5 abused or neglected or reason to believe that a child has been threatened with abuse
6 or neglect and that abuse or neglect of the child will occur may make such a report.
7 Any person, including an attorney, having reason to suspect that an unborn child has
8 been abused or reason to believe that an unborn child is at substantial risk of abuse
9 may report as provided in sub. (3). No person making a report under this subsection
10 may be discharged from employment for so doing.

11 **SECTION 30.** 49.19 (1) (a) 2. b. of the statutes is amended to read:

12 49.19 (1) (a) 2. b. Is living in a foster home or treatment foster home licensed
13 under s. 48.62 if a license is required under that section, in a foster home or treatment
14 foster home located within the boundaries of a federally recognized American Indian
15 reservation in this state and licensed by the tribal governing body of the reservation,
16 in a group home licensed under s. 48.625 ~~or in a child-caring institution, or in a~~
17 residential care center for children and youth licensed under s. 48.60, and has been
18 placed in the foster home, treatment foster home, group home ~~or institution, or center~~
19 by a county department under s. 46.215, 46.22 or 46.23, by the department of health
20 and family services, by the department of corrections, or by a federally recognized
21 American Indian tribal governing body in this state under an agreement with a
22 county department.

23 **SECTION 31.** 49.19 (10) (b) of the statutes is amended to read:

24 49.19 (10) (b) Aid under this section may also be granted on behalf of a child
25 in the legal custody of a county department under s. 46.215, 46.22 or 46.23 or on

1 behalf of a child who was removed from the home of a relative specified in sub. (1)
2 (a) as a result of a judicial determination that continuance in the home of a relative
3 would be contrary to the child's welfare for any reason when such child is placed in
4 a licensed ~~child-caring institution~~ residential care center for children and youth by
5 the county department. Reimbursement shall be made by the state pursuant to par.
6 (a).

7 **SECTION 32.** 49.19 (10) (c) of the statutes is amended to read:

8 49.19 (10) (c) Reimbursement under par. (a) may also be paid to the county
9 when the child is placed in a licensed foster home, treatment foster home, group
10 home ~~or child-caring institution, or residential care center for children and youth~~ by
11 a licensed child welfare agency or by a federally recognized American Indian tribal
12 governing body in this state or by its designee, if the child is in the legal custody of
13 the county department under s. 46.215, 46.22 or 46.23 or if the child was removed
14 from the home of a relative specified in sub. (1) (a) as a result of a judicial
15 determination that continuance in the home of the relative would be contrary to the
16 child's welfare for any reason and the placement is made pursuant to an agreement
17 with the county department.

18 **SECTION 33.** 49.19 (10) (d) of the statutes is amended to read:

19 49.19 (10) (d) Aid may also be paid under this section to a licensed foster home,
20 treatment foster home, group home ~~or child-caring institution, or residential care~~
21 center for children and youth by the state when the child is in the custody or
22 guardianship of the state, when the child is a ward of an American Indian tribal court
23 in this state and the placement is made under an agreement between the department
24 and the tribal governing body, or when the child was part of the state's direct service
25 case load and was removed from the home of a relative specified in sub. (1) (a) as a

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1 result of a judicial determination that continuance in the home of a relative would
2 be contrary to the child's welfare for any reason and the child is placed by the
3 department of health and family services or the department of corrections.

4 SECTION 34. 49.19 (10) (e) of the statutes is amended to read:

5 49.19 (10) (e) Notwithstanding pars. (a), (c) and (d), aid under this section may
6 not be granted for placement of a child in a foster home or treatment foster home
7 licensed by a federally recognized American Indian tribal governing body, for
8 placement of a child in a foster home, treatment foster home or child-caring
9 institution, or residential care center for children and youth by a tribal governing
10 body or its designee, for the placement of a child who is a ward of a tribal court if the
11 tribal governing body is receiving or is eligible to receive funds from the federal
12 government for that type of placement, or for placement of a child in a group home
13 licensed under s. 48.625.

14 SECTION 35. 70.11 (19) of the statutes is amended to read:

15 70.11 (19) INSTITUTIONS AND CENTERS FOR DEPENDENT CHILDREN AND PERSONS WHO
16 HAVE DEVELOPMENTAL DISABILITIES. The property of any ~~institution~~ residential care
17 center for children and youth that is licensed under s. 48.60 for the care of dependent
18 or neglected children or delinquent juveniles if that property is used for that purpose
19 and the property of any nonprofit institution that is subject to examination under s.
20 46.03 (5) and that has a full-time population of at least 150 individuals who have
21 developmental disabilities, as defined in s. 51.01 (5), if that property is used for that
22 purpose.

NOTE: This SECTION eliminates a vague reference to an "institution" licensed under s. 48.60, stats., and replaces that vague reference with a specific reference to a "residential care center for children and youth" licensed under s. 48.60, stats., which is the legally defined and professionally accepted term for a facility operated by a child welfare agency for the care and maintenance of children.

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SECTION 36. 115.76 (4) of the statutes is renumbered 115.76 (14g) and amended

2 to read:

3 115.76 (14g) "~~Child caring institution~~" "Residential care center for children
4 and youth" means a facility operated by a child welfare agency licensed under s.
5 48.60 for the care and maintenance of children residing in that facility.

~~6~~

~~SECTION 37.~~ 115.762 (3) (g) of the statutes is amended to read:

7 115.762 (3) (g) Monitoring and enforcing local educational agency and ~~child~~
8 ~~caring institution~~ residential care center for children and youth compliance with this
9 subchapter and applicable federal law, including 20 USC 1415 (k).

10 SECTION 38. 115.81 (1) (b) of the statutes is amended to read:

11 115.81 (1) (b) "Responsible local educational agency" means the local
12 educational agency that was responsible for providing a free, appropriate public
13 education to the child before the placement of the child in a ~~child caring institution~~
14 residential care center for children and youth except that if the child resided in an
15 institution or facility operated by the department of health and family services, a
16 Type 1 secured correctional facility, as defined in s. 938.02 (19), or a Type 1 prison,
17 as defined in s. 301.01 (5), before the placement of the child in a ~~child caring~~
18 ~~institution~~ residential care center for children and youth, "responsible local
19 educational agency" means the school district in which the ~~child caring institution~~
20 residential care center for children and youth is located.

21 SECTION 39. 115.81 (2) of the statutes is amended to read:

22 115.81 (2) ESTABLISHMENT OF PROGRAM. Subject to the approval of the division,
23 a ~~child caring institution~~ residential care center for children and youth may establish
24 and maintain special education and related services for children with disabilities.

25 SECTION 40. 115.81 (3) (a) of the statutes is amended to read:

1 115.81 (3) (a) Whenever a county department recommends to a court that a
2 child be placed in a ~~child-caring institution~~ residential care center for children and
3 youth or whenever a state agency anticipates placing a child in a ~~child-caring~~
4 ~~institution~~ residential care center for children and youth, the county department or
5 state agency shall notify the responsible local educational agency.

6 **SECTION 41.** 115.81 (3) (b) 2. b. of the statutes is amended to read:

7 115.81 (3) (b) 2. b. If the responsible local educational agency has reasonable
8 cause to believe that the child is a child with a disability, appoint an individualized
9 education program team to conduct an evaluation of the child under s. 115.782. The
10 responsible local educational agency may include appropriately licensed staff of the
11 ~~child-caring institution~~ residential care center for children and youth in the team if
12 that staff is available. The individualized education program team shall conduct the
13 evaluation. If the individualized education program team determines that the child
14 is a child with a disability, the individualized education program team, in
15 consultation with a county department or a state agency, as appropriate, shall
16 develop an individualized education program and an educational placement offer.

17 **SECTION 42.** 115.81 (4) (intro.) of the statutes is amended to read:

18 115.81 (4) RESPONSIBILITY FOR EDUCATIONAL PLACEMENT. (intro.) Whenever the
19 responsible local educational agency offers an educational placement in a ~~child~~
20 ~~caring institution~~ residential care center for children and youth under sub. (3) (b) 1.
21 or 2. b., all of the following apply:

22 **SECTION 43.** 115.81 (4) (a) 3. of the statutes is amended to read:

23 115.81 (4) (a) 3. While the child resides at a ~~child-caring institution~~ residential
24 care center for children and youth, appoint an individualized education program

1 team to conduct reevaluations of the child in the manner provided under s. 115.782
2 (4).

3 **SECTION 44.** 115.81 (4) (a) 4. of the statutes is amended to read:

4 115.81 (4) (a) 4. While the child resides at a ~~child-caring institution~~ residential
5 care center for children and youth, after consulting with the ~~child-caring institution~~
6 residential care center for children and youth and a county department or a state
7 agency, as appropriate, refer the child to another local educational agency if the
8 responsible local educational agency determines that the child's special education
9 needs may be appropriately served in a less restrictive setting in the other local
10 educational agency.

11 **SECTION 45.** 115.81 (4) (a) 5. of the statutes is amended to read:

12 115.81 (4) (a) 5. If the child is leaving the ~~child-caring institution~~ residential
13 care center for children and youth, assign staff or an individualized education
14 program team to develop a reintegration plan for the child in cooperation with a
15 county department and staff of the ~~child-caring institution~~ residential care center for
16 children and youth.

17 **SECTION 46.** 115.81 (4) (b) 1. of the statutes is amended to read:

18 115.81 (4) (b) 1. Consider the child's educational needs when selecting a ~~child~~
19 ~~caring institution~~ residential care center for children and youth for the child.

20 **SECTION 47.** 115.81 (4) (b) 2. of the statutes is amended to read:

21 115.81 (4) (b) 2. In cooperation with the responsible local educational agency
22 and staff of the ~~child-caring institution~~ residential care center for children and youth,
23 participate in the individualized education program team evaluation of the child and
24 the development of the individualized education program for the child.

25 **SECTION 48.** 115.81 (4) (b) 3. of the statutes is amended to read:

1 115.81 (4) (b) 3. Notify the local educational agency that will be responsible for
2 providing a free, appropriate public education to the child whenever the county
3 department or state agency anticipates removing the child from the ~~child caring~~
4 institution residential care center for children and youth.

5 **SECTION 49.** 115.81 (4) (b) 4. of the statutes is amended to read:

6 115.81 (4) (b) 4. In cooperation with the responsible local educational agency
7 and staff of the ~~child caring institution residential care center for children and youth,~~
8 develop a reintegration plan for the child if the child is leaving the ~~child caring~~
9 institution residential care center for children and youth.

10 **SECTION 50.** 115.81 (4) (b) 5. of the statutes is amended to read:

11 115.81 (4) (b) 5. Pay all of the ~~child caring institution residential care center~~
12 for children and youth related costs of educating the child while the child resides in
13 the ~~child caring institution residential care center for children and youth.~~

14 **SECTION 51.** 146.82 (2) (a) 18m. of the statutes is amended to read:

15 146.82 (2) (a) 18m. If the subject of the patient health care records is a child
16 or juvenile who has been placed in a foster home, treatment foster home, group home,
17 ~~child caring institution residential care center for children and youth,~~ or a secured
18 correctional facility, including a placement under s. 48.205, 48.21, 938.205, or 938.21
19 or for whom placement in a foster home, treatment foster home, group home, ~~child~~
20 earing institution residential care center for children and youth, or secured
21 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c),
22 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under
23 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an
24 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),
25 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a

1 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831
2 (4) (e), 938.355 (2e), or 938.38 regarding the child or juvenile, or to an agency that
3 placed the child or juvenile or arranged for the placement of the child or juvenile in
4 any of those placements and, by any of those agencies, to any other of those agencies
5 and, by the agency that placed the child or juvenile or arranged for the placement of
6 the child or juvenile in any of those placements, to the foster parent or treatment
7 foster parent of the child or juvenile or the operator of the group home, ~~child caring~~
8 ~~institution~~ residential care center for children and youth, or secured correctional
9 facility in which the child or juvenile is placed, as provided in s. 48.371 or 938.371.

10 **SECTION 52.** 252.15 (5) (a) 19. of the statutes is amended to read:

11 252.15 (5) (a) 19. If the test was administered to a child who has been placed
12 in a foster home, treatment foster home, group home, ~~child caring institution~~
13 residential care center for children and youth, or secured correctional facility, as
14 defined in s. 938.02 (15m), including a placement under s. 48.205, 48.21, 938.205, or
15 938.21 or for whom placement in a foster home, treatment foster home, group home,
16 ~~child caring institution~~ residential care center for children and youth, or secured
17 correctional facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c),
18 or 938.33 (3) or (4), to an agency directed by a court to prepare a court report under
19 s. 48.33 (1), 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c), or 938.33 (1), to an
20 agency responsible for preparing a court report under s. 48.365 (2g), 48.425 (1),
21 48.831 (2), 48.837 (4) (c), or 938.365 (2g), to an agency responsible for preparing a
22 permanency plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4), 48.831
23 (4) (e), 938.355 (2e), or 938.38 regarding the child, or to an agency that placed the
24 child or arranged for the placement of the child in any of those placements and, by
25 any of those agencies, to any other of those agencies and, by the agency that placed

1 the child or arranged for the placement of the child in any of those placements, to the
2 child's foster parent or treatment foster parent or the operator of the group home,
3 ~~child caring institution~~ residential care center for children and youth, or secured
4 correctional facility in which the child is placed, as provided in s. 48.371 or 938.371.

5 **SECTION 53.** 301.08 (1) (b) 3. of the statutes is amended to read:

6 301.08 (1) (b) 3. Contract with public, private, or voluntary agencies for the
7 supervision, maintenance, and operation of secured correctional facilities, ~~child~~
8 ~~caring institutions~~ residential care centers for children and youth, as defined in s.
9 938.02 (2e) (15d), and secured child caring institutions for the placement of juveniles
10 who have been convicted under s. 938.183 or adjudicated delinquent under s. 938.183
11 or 938.34 (4d), (4h), or (4m). The department may designate a secured correctional
12 facility, ~~child caring institution~~ residential care center for children and youth, or a
13 secured child caring institution contracted for under this subdivision as a Type 2
14 secured correctional facility, as defined in s. 938.02 (20), and may designate a ~~child~~
15 ~~caring institution~~ residential care center for children and youth or secured child
16 caring institution contracted for under this subdivision as a Type 2 child caring
17 institution, as defined in s. 938.02 (19r).

18 **SECTION 54.** 301.12 (14) (b) of the statutes is amended to read:

19 301.12 (14) (b) Except as provided in par. (c) and subject to par. (cm), liability
20 of a parent specified in sub. (2) or s. 301.03 (18) for the care and maintenance of the
21 parent's minor child who has been placed by a court order under s. 938.183, 938.355,
22 or 938.357 in a residential, nonmedical facility such as a group home, foster home,
23 treatment foster home, ~~child caring institution~~ residential care center for children
24 and youth, or juvenile correctional institution shall be determined by the court by
25 using the percentage standard established by the department of workforce

1 development under s. 49.22 (9) and by applying the percentage standard in the
2 manner established by the department under par. (g).

3 **SECTION 55.** 301.26 (4) (d) 2. of the statutes is amended to read:

4 301.26 (4) (d) 2. Beginning on July 1, 1999, and ending on December 31, 1999,
5 the per person daily cost assessment to counties shall be \$153.01 for care in a Type 1
6 secured correctional facility, as defined in s. 938.02 (19), \$153.01 for care for juveniles
7 transferred from a juvenile correctional institution under s. 51.35 (3), \$183.72 for
8 care in a child caring institution, including a secured child caring institution
9 residential care center for children and youth, \$118.93 for care in a group home for
10 children, \$26.17 for care in a foster home, \$75.37 for care in a treatment foster home,
11 \$72.66 for departmental corrective sanctions services, and \$19.76 for departmental
12 aftercare services.

13 **SECTION 56.** 301.26 (4) (d) 3. of the statutes is amended to read:

14 301.26 (4) (d) 3. In calendar year 2000, the per person daily cost assessment
15 to counties shall be \$153.55 for care in a Type 1 secured correctional facility, as
16 defined in s. 938.02 (19), \$153.55 for care for juveniles transferred from a juvenile
17 correctional institution under s. 51.35 (3), \$187.21 for care in a child caring
18 institution, including a secured child caring institution residential care center for
19 children and youth, \$121.19 for care in a group home for children, \$26.67 for care in
20 a foster home, \$76.80 for care in a treatment foster home, \$74.68 for departmental
21 corrective sanctions services, and \$19.15 for departmental aftercare services.

22 **SECTION 57.** 301.26 (4) (d) 4. of the statutes is amended to read:

23 301.26 (4) (d) 4. Beginning on January 1, 2001, and ending on June 30, 2001,
24 the per person daily cost assessment to counties shall be \$154.08 for care in a Type 1
25 secured correctional facility, as defined in s. 938.02 (19), \$154.08 for care for juveniles

1 transferred from a juvenile correctional institution under s. 51.35 (3), ~~\$190.70~~ for
2 care in a ~~child caring institution, including a secured child caring institution~~
3 residential care center for children and youth, \$123.45 for care in a group home for
4 children, \$27.16 for care in a foster home, \$78.23 for care in a treatment foster home,
5 \$76.71 for departmental ~~corrective sanctions services~~, and \$18.62 for departmental
6 ~~aftercare services~~.

7 **SECTION 58.** 767.29 (3) (b) of the statutes is amended to read:

8 767.29 (3) (b) If a child who is the beneficiary of support under a judgment or
9 order is placed by court order in a ~~child caring institution~~ residential care center for
10 children and youth, juvenile correctional institution, or state mental institution, the
11 right of the child to support during the period of the child's confinement, including
12 any right to unpaid support accruing during that period, is assigned to the state. If
13 the judgment or order providing for the support of a child who is placed in a child
14 ~~caring institution~~ residential care center for children and youth, juvenile
15 correctional institution, or state mental institution includes support for one or more
16 other children, the support that is assigned to the state shall be the proportionate
17 share of the child placed in the center or institution, except as otherwise ordered by
18 the court or family court commissioner on the motion of a party.

19 **SECTION 59.** 938.02 (2c) of the statutes is renumbered 938.02 (15d) and
20 amended to read:

21 938.02 (15d) "~~Child caring institution~~" "Residential care center for children
22 and youth" means a facility operated by a child welfare agency licensed under s.
23 48.60 for the care and maintenance of persons residing in that facility.

24 **SECTION 60.** 938.02 (15g) of the statutes is amended to read:

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1 938.02 (15g) "Secured child caring institution" means a ~~child caring institution~~
2 residential care center for children and youth operated by a child welfare agency that
3 is licensed under s. 48.66 (1) (b) to hold in secure custody persons adjudged
4 delinquent.

5 **SECTION 61.** 938.02 (19r) of the statutes is amended to read:

6 938.02 (19r) "Type 2 child caring institution" means a ~~child caring institution~~
7 residential care center for children and youth that is designated by the department
8 to provide care and maintenance for juveniles who have been placed in the ~~child~~
9 ~~caring institution~~ residential care center for children and youth under the
10 supervision of a county department under s. 938.34 (4d).

11 **SECTION 62.** 938.08 (3) (a) 1. of the statutes is amended to read:

12 938.08 (3) (a) 1. If they are in prompt pursuit of a juvenile who has run away
13 from a secured correctional facility, a ~~child caring institution~~ residential care center
14 for children and youth, or a secured group home.

15 **SECTION 63.** 938.08 (3) (a) 2. of the statutes is amended to read:

16 938.08 (3) (a) 2. If the juvenile has failed to return to a secured correctional
17 facility, a ~~child caring institution~~ residential care center for children and youth, or
18 a secured group home after any authorized absence.

19 **SECTION 64.** 938.08 (3) (b) of the statutes is amended to read:

20 938.08 (3) (b) A juvenile who is taken into custody under par. (a) may be
21 returned directly to the secured correctional facility, ~~child caring institution~~
22 residential care center for children and youth, or secured group home and shall have
23 a hearing regarding placement in a disciplinary cottage or in disciplinary status in
24 accordance with ch. 227.

25 **SECTION 65.** 938.33 (4) (intro.) of the statutes is amended to read:

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residential treatment center operated by a
child welfare agency

1 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
2 placement in a foster home, treatment foster home, group home, or nonsecured child
3 ~~caring institution~~ residential care center for children and youth shall be in writing,
4 except that the report may be presented orally at the dispositional hearing if all
5 parties consent. A report that is presented orally shall be transcribed and made a
6 part of the court record. The report shall include all of the following:

7 SECTION 66. 938.34 (3) (d) of the statutes is amended to read:

8) 938.34 (3) (d) A ~~child caring institution, residential care center for children and~~
9) ~~youth~~ licensed under s. 48.60.

10 SECTION 67. 938.34 (5) (am) of the statutes is amended to read:

11 938.34 (5) (am) Subject to par. (c), order a juvenile who owes restitution under
12 par. (a) and who is receiving income while placed in a secured correctional facility,
13 residential (plain) treatment center ~~care center for children and youth~~, or other
14 out-of-home placement to contribute a stated percentage of that income towards
15 that restitution.

NOTE: This SECTION changes the term "residential treatment center" to "residential
care center for children and youth" to describe a facility operated by a licensed child
welfare agency for the care and maintenance of children residing in that facility.

Author "KD" ✓

16) SECTION 68. 938.371 (1) of the statutes is amended to read:

17 938.371 (1) If a juvenile is placed in a foster home, treatment foster home,
18 group home, ~~child caring institution~~ residential care center for children and youth,
19 or secured correctional facility, including a placement under s. 938.205 or 938.21, the
20 agency, as defined in s. 938.38 (1) (a), that placed the juvenile or arranged for the
21 placement of the juvenile shall provide the following information to the foster parent,
22 treatment foster parent, or operator of the group home, ~~child caring institution~~
23 residential care center for children and youth, or secured correctional facility at the

changes the term "child caring institution" to "residential treatment
center" and clarifies that it is the child welfare agency operating the
residential treatment center, and not the residential treatment center itself,
that is licensed under s. 48.60.

1 time of placement or, if the information has not been provided to the agency by that
2 time, as soon as possible after the date on which the agency receives that
3 information, but not more than 2 working days after that date:

4 (a) Results of a test or a series of tests of the juvenile to determine the presence
5 of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products of HIV, or an
6 antibody to HIV, as provided under s. 252.15 (5) (a) 19., including results included
7 in a court report or permanency plan. At the time that the test results are provided,
8 the agency shall notify the foster parent, treatment foster parent, or operator of the
9 group home, ~~child caring institution~~ residential care center for children and youth,
10 or secured correctional facility of the confidentiality requirements under s. 252.15
11 (6).

12 (b) Results of any tests of the juvenile to determine the presence of viral
13 hepatitis, type B, including results included in a court report or permanency plan.
14 The foster parent, treatment foster parent, or operator of a group home, ~~child caring~~
15 ~~institution~~ residential care center for children and youth, or secured correctional
16 facility receiving information under this paragraph shall keep the information
17 confidential.

18 (c) Any other medical information concerning the juvenile that is necessary for
19 the care of the juvenile. The foster parent, treatment foster parent, or operator of a
20 group home, ~~child caring institution~~ residential care center for children and youth,
21 or secured correctional facility receiving information under this paragraph shall
22 keep the information confidential.

23 **SECTION 69.** 938.371 (3) (intro.) of the statutes is amended to read:

24 938.371 (3) (intro.) At the time of placement of a juvenile in a foster home,
25 treatment foster home, group home, ~~child caring institution~~ residential care center

1 for children and youth, or secured correctional facility or, if the information is not
2 available at that time, as soon as possible after the date on which the court report
3 or permanency plan has been submitted, but no later than 7 days after that date, the
4 agency, as defined in s. 938.38 (1) (a), responsible for preparing the juvenile's
5 permanency plan shall provide to the foster parent, treatment foster parent, or
6 operator of the group home, ~~child caring institution~~ residential care center for
7 children and youth, or secured correctional facility information contained in the
8 court report submitted under s. 938.33 (1) or 938.365 (2g) or permanency plan
9 submitted under s. 938.355 (2e) or 938.38 relating to findings or opinions of the court
10 or agency that prepared the court report or permanency plan relating to any of the
11 following:

12 **SECTION 70.** 938.371 (3) (a) of the statutes is amended to read:

13 938.371 (3) (a) Any mental, emotional, cognitive, developmental, or behavioral
14 disability of the juvenile. The foster parent, treatment foster parent, or operator of
15 a group home, ~~child caring institution~~ residential care center for children and youth,
16 or secured correctional facility receiving information under this subsection shall
17 keep the information confidential.

18 **SECTION 71.** 938.371 (3) (b) of the statutes is amended to read:

19 938.371 (3) (b) Any involvement of the juvenile in any criminal gang, as defined
20 in s. 939.22 (9), or in any other group in which any child was traumatized as a result
21 of his or her association with that group. The foster parent, treatment foster parent,
22 or operator of a group home, ~~child caring institution~~ residential care center for
23 children and youth, or secured correctional facility receiving information under this
24 paragraph shall keep the information confidential.

25 **SECTION 72.** 938.371 (3) (c) of the statutes is amended to read:

1 938.371 (3) (c) Any involvement of the juvenile in any activities that are
2 harmful to the juvenile's physical, mental, or moral well-being. The foster parent,
3 treatment foster parent, or operator of a group home, ~~child-caring institution~~
4 residential care center for children and youth, or secured correctional facility
5 receiving information under this paragraph shall keep the information confidential.

6 **SECTION 73.** 938.371 (3) (d) of the statutes is amended to read:

7 938.371 (3) (d) Any involvement of the juvenile, whether as victim or
8 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,
9 or 948.025, prostitution in violation of s. 944.30, sexual exploitation of a child in
10 violation of s. 948.05, or causing a child to view or listen to sexual activity in violation
11 of s. 948.055, if the information is necessary for the care of the juvenile or for the
12 protection of any person living in the foster home, treatment foster home, group
13 home, ~~child-caring institution~~ residential care center for children and youth, or
14 secured correctional facility. The foster parent, treatment foster parent, or operator
15 of a group home, ~~child-caring institution~~ residential care center for children and
16 youth, or secured correctional facility receiving information under this paragraph
17 shall keep the information confidential.

18 **SECTION 74.** 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~~ residential care center for children and youth, secure detention
22 facility, or shelter care facility, the agency that placed the juvenile or arranged the
23 placement or the agency assigned primary responsibility for providing services to the
24 juvenile under s. 938.355 shall prepare a written permanency plan, if any of the
25 following conditions exists:

1 **SECTION 75.** 938.51 (1d) (intro.) of the statutes is amended to read:

2 938.51 (1d) (intro.) At least 15 days prior to the release from a nonsecured ~~child~~
3 ~~earing institution~~ residential care center for children and youth of a juvenile who has
4 either been adjudicated delinquent under s. 48.12, 1993 stats., or s. 938.12 or been
5 found to be in need of protection or services under s. 48.13 (12), 1993 stats., or s.
6 938.13 (12) and who has been found to have committed a violation of ch. 940 or of s.
7 948.02, 948.025, or 948.03, and at least 15 days prior to the release from a nonsecured
8 ~~child caring institution~~ residential care center for children and youth of a juvenile
9 who has been found to be in need of protection or services under s. 48.13 (14), 1993
10 stats., or s. 938.13 (14), the department or county department having supervision
11 over the juvenile shall notify all of the following persons of the juvenile's release:

12 **SECTION 76.** 938.51 (4) (intro.) of the statutes is amended to read:

13 938.51 (4) (intro.) If a juvenile described in sub. (1), (1d), or (1g) escapes from
14 a secured correctional facility, ~~child caring institution~~ residential care center for
15 children and youth, secured group home, inpatient facility, secure detention facility,
16 or juvenile portion of a county jail, or from the custody of a peace officer or a guard
17 of such a facility, ~~institution center~~, home, or jail, or has been allowed to leave a
18 secured correctional facility, ~~child caring institution~~ residential care center for
19 children and youth, secured group home, inpatient facility, secure detention facility,
20 or juvenile portion of a county jail for a specified period of time and is absent from
21 the facility, ~~institution center~~, home, or jail for more than 12 hours after the
22 expiration of the specified period, as soon as possible after the department or county
23 department having supervision over the juvenile discovers that escape or absence,
24 that department or county department shall make a reasonable attempt to notify by
25 telephone all of the following persons:

1 **SECTION 77.** 938.538 (3) (a) 1p. of the statutes is amended to read:

2 938.538 (3) (a) 1p. Alternate care, including placement in a foster home,
3 treatment foster home, group home, ~~child caring institution~~ residential care center
4 for children and youth, or secured child caring institution.

5 **SECTION 78.** 938.539 (5) of the statutes is amended to read:

6 938.539 (5) With respect to a juvenile who is placed in a ~~child caring institution~~
7 residential care center for children and youth or a secured child caring institution
8 under s. 938.34 (4d) or 938.357 (4) (a) or in a less restrictive placement under s.
9 938.357 (4) (c), the child welfare agency operating the ~~child caring institution~~
10 residential care center for children and youth or secured child caring institution in
11 which the juvenile is placed, and the person operating any less restrictive placement
12 in which the juvenile is placed, shall operate that ~~child caring institution~~ residential
13 care center for children and youth, secured child caring institution, or less restrictive
14 placement as a Type 2 child caring institution or a Type 2 secured correctional
15 facility. This subsection does not preclude a child welfare agency or other person
16 from placing in a ~~child caring institution~~ residential care center for children and
17 youth, secured child caring institution, or less restrictive placement in which a
18 juvenile is placed under s. 938.34 (4d) or 938.357 (4) (a) or (c) a juvenile who is not
19 placed under s. 938.34 (4d) or 938.357 (4) (a) or (c).

20 **SECTION 79.** 938.57 (3) (a) 4. of the statutes is amended to read:

21 938.57 (3) (a) 4. Is living in a foster home, treatment foster home, group home
22 ~~or child caring institution~~, or residential care center for children and youth.

23 **SECTION 80.** ^{AUTO REF "KE" ✓} 938.78 (3) of the statutes is amended to read:

24 938.78 (3) If a juvenile adjudged delinquent under s. 48.12, 1993 stats., or s.
25 938.12 or found to be in need of protection or services under s. 48.13 (12), 1993 stats.,

1 or s. 48.13 (14), 1993 stats., or s. 938.13 (12) or (14) on the basis of a violation of s.
2 941.10, 941.11, 941.20, 941.21, 941.23, 941.235, 941.237, 941.24, 941.26, 941.28,
3 941.295, 941.298, 941.30, 941.31, 941.32, 941.325, 943.02, 943.03, 943.04, 943.10 (2)
4 (a), 943.23 (1g), (1m), or (1r), 943.32 (2), 948.02, 948.025, 948.03, 948.05, 948.055,
5 948.60, 948.605, or 948.61 or any crime specified in ch. 940 has escaped from a
6 secured correctional facility, ~~child-caring institution~~ residential care center for
7 children and youth, secured group home, inpatient facility, as defined in s. 51.01 (10),
8 secure detention facility, or juvenile portion of a county jail, or from the custody of
9 a peace officer or a guard of such a facility, ~~institution center~~, or jail, or has been
10 allowed to leave a secured correctional facility, ~~child-caring institution~~ residential
11 care center for children and youth, secured group home, inpatient facility, secure
12 detention facility, or juvenile portion of a county jail for a specified time period and
13 is absent from the facility, ~~institution center~~, home, or jail for more than 12 hours
14 after the expiration of the specified period, the department or county department
15 having supervision over the juvenile may release the juvenile's name and any
16 information about the juvenile that is necessary for the protection of the public or to
17 secure the juvenile's return to the facility, ~~institution center~~, home, or jail. The
18 department of corrections shall promulgate rules establishing guidelines for the
19 release of the juvenile's name or information about the juvenile to the public.

20 SECTION ~~(81)~~ 940.295 (2) (m) of the statutes is amended to read:

21 940.295 (2) (m) ~~An institution~~ A residential care center for children and youth
22 operated by a child welfare agency licensed under s. 48.60 or an institution operated
23 by a public agency for the care of neglected, dependent, or delinquent children.

NOTE: This SECTION eliminates a vague reference to an "institution" operated by a child welfare agency and replaces that vague reference with a specific reference to a "residential care center for children and youth" operated by a child welfare agency, which

Section #. 48.988 (2) (b) of the statutes is amended to read:

48.988 (2) (b) "Placement" means the arrangement for the care of a child in a family free or board-
ing home ~~or~~ in a child-caring agency or institution but does not include any institution caring for
the mentally ill, mentally defective, or epileptic ~~or~~ any institution primarily educational in character,
~~and~~ any hospital or other medical facility.

History: 1977 c. 354; Stats. 1977 s. 48.99; 1977 c. 447; Stats. 1977 s. 48.988; 1981 c. 390; 1983 a. 189; 1985 a. 29
s. 3202 (23); 1987 a. 403; 1993 a. 326; 1997 a. 104; 1999 a. 32.

) or in a residential care center for children and
youth,

(end of insert)

Insert 24-61

as affected by 2001 Wisconsin Act 16, ✓

residential care center for children
and youth

from
01 Act 16

~~SECTION 3140d.~~ 301.26 (4) (d) 2. of the statutes is amended to read:
301.26 (4) (d) 2. Beginning on July 1, ~~1999~~ 2001, and ending on ~~December 31, 1999~~ June 30, 2002, the per person daily cost assessment to counties shall be ~~\$153.01~~ \$167.57 for care in a Type 1 secured correctional facility, as defined in s. 938.02 (19), ~~\$153.01~~ \$167.57 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~\$183.70~~ \$213 for care in a ~~child caring institution, including a secured child caring institution,~~ \$118.93 \$129 for care in a group home for children, ~~\$26.17~~ \$41 for care in a foster home, ~~\$75.87~~ \$81 for care in a treatment foster home, ~~\$72.00~~ \$82.56 for departmental corrective sanctions services, and ~~\$10.76~~ \$21.96 for departmental aftercare services.



Insert 24-6 don't

, as affected by 2001 Wisconsin Act 16,

residential care center for children
and youth

From
01 Act 16

SECTION 3341d. 301.26 (4) (d) 3. of the statutes is amended to read:
301.26 (4) (d) 3. ~~In calendar year 2000~~ Beginning on July 1, 2002, and ending on June 30, 2003, the per person daily cost assessment to counties shall be ~~\$159.55~~ \$172.51 for care in a Type 1 secured correctional facility, as defined in s. 938.02 (19), ~~\$159.55~~ \$172.51 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~\$187.71~~ \$226 for care in a ~~child caring institution, including a secured child caring institution,~~ \$135 for care in a group home for children, ~~\$26.67~~ \$43 for care in a foster home, ~~\$76.80~~ \$85 for care in a treatment foster home, ~~\$74.68~~ \$84.50 for departmental corrective sanctions services, and ~~\$10.15~~ \$22.66 for departmental aftercare services.

(end of insert)

is the legally defined and professionally accepted term for a facility operated by a child welfare agency for the care and maintenance of children.

1

(END)

D-NOTE

Rachel:

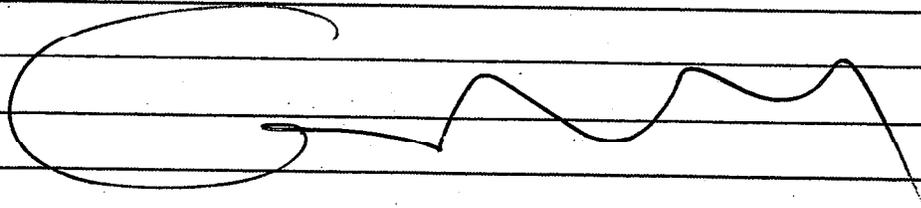
In response to DHS's comments relating to LRB-1290/P1, this redraft does all of the following:

1. The redraft does not simply delete the treatment of s. 48.345 (3)(d) from the draft. Rather, the redraft keeps the reference to "residential treatment center" ^(RTC) as requested by DHS, but clarifies that it is the child welfare agency operating the RTC, and not the RTC itself, that is licensed under s. 48.60. The redraft similarly amends s. 938.34 (3)(d), which is the parallel provision in the Juvenile Justice Code to s. 48.345 (3)(d) of the Children's Code.

2. The redraft does not simply delete the treatment of s. 48.60 (4)(b) from the draft. Rather, the redraft eliminates the reference to a "residential care center for children and youth" as requested by DHS, but also eliminates some surplus and confusing language referring to a child who is a "resident" of a child welfare agency. The redraft also fixes another reference to a child caring institution that I spotted in s. 48.988 (2)(b).

3. Finally, the redraft changes s. 48.981 (2)
exactly as requested by DRFS.

If you have any questions about these changes,
please do not hesitate to contact me directly at
the phone number or e-mail address listed below.

A handwritten signature in black ink, consisting of a large, stylized initial 'G' followed by a series of connected, wavy lines that form the rest of the name.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1290/P2dn
GMM:kmg:jf

October 4, 2001

Rachel:

In response to DHFS' comments relating to LRB-1290/P1, this redraft does all of the following:

1. The redraft does not simply delete the treatment of s. 48.345 (3) (d) from the draft. Rather, the redraft keeps the reference to "residential treatment center" (RTC) as requested by DHFS, but clarifies that it is the child welfare agency operating the RTC, and not the RTC itself, that is licensed under s. 48.60. The redraft similarly amends s. 938.34 (3) (d), which is the parallel provision in the Juvenile Justice Code to s. 48.345 (3) (d) of the Children's Code.
2. The redraft does not simply delete the treatment of s. 48.60 (4) (b) from the draft. Rather, the redraft eliminates the reference to a "residential care center for children and youth" as requested by DHFS, but also eliminates some surplus and confusing language referring to a child who is a "resident" of a child welfare agency. The redraft also fixes another reference to a child caring institution that I spotted in s. 48.988 (2) (b).
3. Finally, the redraft changes s. 48.981 (2) exactly as requested by DHFS.

If you have any questions about these changes, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

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



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leca, Secretary

To: Terry C. Anderson, Director
Legislative Council

From: *Russ* Russ Pederson, Legislative Liaison
Department of Health and Family Services

Date: November 16, 2000

Re: Remedial legislation

Attached is a description of the 2001 statutory language request proposals submitted by the Department of Health and Family Services for consideration by the Law Revision Committee and staff.

If you have questions about any of the proposals, you may contact me at 266-3262.

Attachment

2/12/01

OK to contact Linda Huffer

DHFS

Department of Health and Family Services
2001-2003 Biennial Budget Statutory Language Request
November 16, 2000

Title: Council on Developmental Disabilities

Current Language

PL 106-402,
SEC. 125 10/30/00

Under s. 15.197 (11n), the Council on Developmental Disabilities is attached to the department. The Governor appoints members to staggered 4-year terms. At least 50% of membership shall consist of persons with developmental disabilities or their parents or guardians or of immediate relatives or guardians of persons with mentally impairing developmental disabilities.

The Administrative/Substantive Problem with Current Statute

Recent amendments to the federal Developmental Disabilities Act included changes in the requirements for membership to a state council on developmental disabilities. New membership requirements include: 1) at least 60% of the council must be people with disabilities or their representatives. At least one-third of these members (20% of council members) must be people with developmental disabilities; one-third must be immediate relatives or guardians; the remaining one-third must be a mixture of people with developmental disabilities, immediate relatives and guardians; 2) term limits for council members (except state agency and advocacy/protection representatives) – two consecutive terms followed by at least a year before reappointment.

The council is a requirement of federal funding to states for programs providing services to individuals with developmental disabilities. Currently, membership of the council does not reflect the requirements described.

Specific Statutory Change Requested

Recommended language:

15.197(11n) Council on developmental disabilities. There is created a council on developmental disabilities, attached to the department of health and family services under s. 15.03. **The membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.**

The Council may coordinate Council and public input to the Governor regarding all recommendations. The Governor shall make appropriate provisions for term limits so as to rotate the membership of the Council. Members shall be state residents and shall be appointed in the following manner for staggered 4-year terms:

15.197(11n)(a)

The Council shall at all times include representatives of the principle state agencies, including: Agencies of the state providing direct services to the developmentally disabled shall be represented by members of the council, to be designated by

15.197(11n)(a)1.

The secretary of workforce development.

15.197(11n)(a) 2.

The secretary of health and family services.

15.197(11n)(a) 3.

The state superintendent of public instruction.

15.197(11n)(a) 4.

The president of the University of Wisconsin.

Renumber and recreate: 15.197(11n)(b)

Council shall at all times include representatives of: (Public and private nonprofit agencies of the state's political subdivisions providing direct services to the developmentally disabled shall be represented by members of the council to be appointed by the governor with due consideration given to:)

1. Each Center in the State established under Part D of the federal DD Act
2. The State protection and advocacy system established under Part C of the federal DD Act
3. Local governmental agencies, non-governmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State.

Renumber and recreate: 15.197(11n)(c) such representatives shall

1. have sufficient authority to engage in policy planning and implementation on behalf of the department, agency or program such representatives represent.
2. Recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies or programs are grantees or applicants.

✓ 15.197(11n)(b)1.

The appointee's demonstrated interest in the problems associated with developmental disabilities.

✓ 15.197(11n)(b) 2.

A reasonably equitable representation of those communities located in the state's urban and rural poverty areas.

15.197(11n)(c)

Representatives of non governmental agencies and groups concerned with services to persons with developmental disabilities shall be represented by members of the council to be appointed by the governor.

15.197(11n)(d)

Representation of individuals with developmental disabilities. At least (one-half) **60 percent** of the membership of the Council shall consist of

- (i) persons with developmental disabilities
- (ii) **parents or guardians of children with developmental disabilities, including significant or profound developmental disabilities**
- (iii) guardians or immediate relatives **of adults with significant or profound persons with mentally impairing developmental disabilities who cannot advocate for themselves.**

These members may not manage, own or have a controlling interest in any entity, or be employees of any state agency which receives federal developmental disabilities funds or provides services using federal formula developmental disabilities funds.

These members shall be appointed by the governor, with consideration given to:

15.197(11n)(d) 1.

The type and relative incidence of developmental disabilities among the state's population.

15.197(11n)(d) 2.

The appointee's demonstrated interest in the problems associated with developmental disabilities.

15.197(11n)(d) 3.

A reasonably equitable representation of the communities located in the state's urban and rural poverty areas.

15.197(11n)(d) 4.

The recommendations of **the Council**, statewide or local nonprofit organizations representing the interests of those affected by developmental disabilities.

Create:

15.197(11n)(e) Composition of membership with developmental disabilities:

Of the members of the Council described in 15.197(11n)(d):

- 1. one-third shall be individuals with developmental disabilities**
- 2. one-third shall be parents of children with developmental disabilities and immediate relatives or guardians of adults with developmental disabilities as described in paragraphs (11n)(d) (ii)&(iii)**
- 3. one-third shall be a combination of individuals described in (e)(1)& (2)**

4. At least one shall be an individual who resides or previously resided in an institution or an immediate relative or guardian of an institutionalized or previously institutionalized person with a significant or profound developmental disability.

Rationale for the Change

Compliance with the federal developmental disabilities act.

Estimate of the Fiscal Effect of the Change

None.

Desired Effective Date: Upon enactment
Agency: DHFS
Agency Contact: Linda Huffer
Phone: 266-5451

2/2/01 From Nick Zavos: ok to call Linda Huffer directly.