



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-0308/4 (5)

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D-NOTE

2001 BILL

Thurs 7/19

Regenerate

1 AN ACT *to amend* 48.13 (9), 48.371 (3) (intro.), 48.38 (2) (d), 48.38 (5) (a), 48.48  
2 (3), 48.57 (1) (b), 48.57 (3n) (am) 6. c., 48.60 (2) (d), 48.62 (3), 48.625 (3), 48.63  
3 (1), 48.64 (1), 48.64 (1r), 48.78 (1), 146.82 (2) (a) 18m., 252.15 (5) (a) 19., 938.355  
4 (1), 938.38 (2) (d) and 938.38 (5) (a); and *to create* 20.435 (3) (f), 46.997, 48.13  
5 (9m), 48.345 (3) (cm), 48.619, 48.625 (1m), 48.63 (5) and 938.34 (3) (cm) of the  
6 statutes; **relating to:** placement of a child who is a custodial parent or an  
7 expectant mother in a safe and structured living arrangement in which the  
8 child is provided with training in parenting skills and other skills to promote  
9 the child's long-term economic independence and the well-being of the child's  
10 child, grants for the provision of such living arrangements and related services,  
11 granting rule-making authority, and making an appropriation.

**Analysis by the Legislative Reference Bureau**

Under current law, the court assigned to exercise jurisdiction under the children's code (juvenile court) has jurisdiction over a child who is alleged to be in need of protection or services which can be ordered by the juvenile court and who meets certain grounds. Currently, if a juvenile court finds a child to be in need of

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*no ff*  
The bill also grants to the juvenile court jurisdiction over any child of such a child

protection or services, the juvenile court may order certain dispositions to protect the well-being of the child, including placing the child in a group home. Current law also permits a child's parent or guardian to place the child in a group home under a voluntary agreement, but for no longer than 15 days.

This bill grants to the juvenile court jurisdiction over a child who is at least 12 years of age, ~~is a custodial parent or expectant mother, is receiving inadequate care, and is in need of a safe and structured living arrangement which the child's parent, guardian, or legal custodian is unwilling, neglecting, unable, or needs assistance to provide.~~ Under the bill, if a child who is at least 12 years of age and who is a custodial parent or expectant mother is found to be receiving inadequate care and to be in need of a safe and structured living arrangement, the juvenile court may order the child to be placed in a group home that has been licensed solely to provide such a safe and structured living arrangement for children 12 years of age or over who are custodial parents or expectant mothers and to provide those children with training in parenting skills and other skills to promote those children's long-term economic independence and the well-being of the children of those children. The bill also permits a child who is 12 years of age or over, who is a custodial parent or expectant mother, and who is in need of such a safe and structured living arrangement to be placed in such a group home under a voluntary agreement for no longer than six months, except that such a placement may be extended if an independent reviewing agency contracted with by the agency that placed the child determines that an extension of the placement would be in the best interests of the child and that the child and the child's parent or guardian consent to the extension.

The bill also requires the department of health and family services to distribute grants to private agencies to provide group homes for children 12 years of age or over who are custodial parents or expectant mothers, whose income is at or below 200% of the federal poverty line, and who are homeless, receiving inadequate care, living in an unsafe or unstable living environment, or otherwise in need of a safe and structured living arrangement or meet the criteria for the juvenile court's child or juvenile in need of protection or services or delinquency jurisdiction or would be at risk of meeting those criteria if not placed in such a group home. The bill also permits a grant recipient to provide related services to current or former residents of such a group home up to age 21, the children and families of those residents, and the noncustodial parents of the children of those residents and to pay for the start-up costs of the agency's program funded under the grant.

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

*other than capital costs,*

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

eligible persons, as defined in the bill, who are placed in those group homes under voluntary agreements. The bill defines an "eligible person" as a child 14

*child over 12 years of age of such a child*

*stat 12*

14

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as a

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parent or an expectant mother

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1 2. Is a child and meets one or more of the criteria specified in s. 48.13, 938.12,  
2 or 938.13 or would be at risk of meeting one or more of those criteria if the child were  
3 not placed in a 2nd-chance home.

4 (b) "Private agency" means an organization operated for profit or a nonstock  
5 corporation organized under ch. 181 that is a nonprofit corporation, as defined in s.  
6 181.0103 (17).

and who are placed in the second  
chance home under a voluntary  
agreement under s. 48.63 (5)

(14)

7 (c) "Second-chance home" means a group home licensed under s. 48.625 (1)  
8 solely to provide a safe and structured living arrangement for children ~~14~~ years of  
9 age or over who are custodial parents, as defined in s. 49.141 (1) (b), or expectant  
10 mothers, and to provide those children with training in parenting skills, including  
11 child development, family budgeting, health and nutrition, and other skills to  
12 promote the long-term economic independence of those children and the well-being  
13 of the children of those children as described in s. 48.625 (1m).

the amount in the  
schedule for that appropria

14 (2) AWARDING OF GRANTS. (a) From the appropriation under s. 20.135 (3) (f), the  
15 department shall distribute not more than ~~\$2,000,000~~ in each fiscal year as grants  
16 to private agencies to provide 2nd-chance homes and related services to eligible

17 persons. A private agency that is awarded a grant under this paragraph may use the  
18 amount awarded under the grant to provide care and maintenance to eligible persons  
19 who are under s. 48.63 (5) placed in a 2nd-chance home operated by the private agency; provide  
20 services, including the services specified in sub. (3), to eligible persons currently  
21 or formerly were placed under s. 48.63 (5) in  
~~approved or former residents of the 2nd-chance home, to the child and family of such~~  
22 children and families of those eligible persons  
~~an eligible person, and to the noncustodial parent of the child of such an eligible~~  
23 parents of the children of those eligible persons  
person; and, in the first year of the grant period, pay for the start-up costs of the

24 private agency's program funded under this paragraph.

who are placed under s. 48.63 (5)  
in 2nd-chance homes operated by  
those private agencies

other than capital costs,

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1           (b) The department of health and family services shall award the grants under  
2 par. (a) on a competitive basis and according to request-for-proposal procedures that  
3 the department of health and family services shall prescribe in consultation with the  
4 department of workforce development, the adolescent pregnancy prevention and  
5 pregnancy services board, local health departments, as defined in s. 250.01 (4), and  
6 other providers of services to eligible persons. In awarding the grants under par. (a),  
7 the department of health and family services shall consider the need for those grants  
8 to be distributed both on a statewide basis and in the areas of the state with the  
9 greatest need for 2nd-chance homes and the need to provide placements for children  
10 who are voluntarily placed in a 2nd-chance home as well as for children who are  
11 placed in a 2nd-chance home by court order.

12           (c) A private agency that is awarded a grant under par. (a) shall contribute  
13 matching funds equal to 25% of the amount awarded under the grant. The match  
14 may be in the form of money or in the form of both money and in-kind services, but  
15 may not be in the form of in-kind services only.

16           (d) A private agency that is awarded a grant under par. (a) may use no more  
17 than 15% of the amount awarded under the grant to pay for administrative costs  
18 associated with the program funded under the grant.

19           (e) A grant under par. (a) shall be awarded for a 3-year period, except that  
20 annually the department shall review the performance of a private agency that is  
21 awarded a grant based on performance criteria that the department shall prescribe  
22 and may discontinue a grant to a private agency whose performance is not  
23 satisfactory to the department based on those criteria.

24           **(3) PROGRAM REQUIREMENTS.** A private agency that receives a grant under sub.

25           (2) (a) shall do all of the following:

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1 (a) Operate a 2nd-chance home for the care and maintenance of eligible  
2 persons who are children, as defined in s. 48.619.

3 (b) Maintain a community-wide network for referring eligible persons to the  
4 private agency's program funded under the grant.

5 (c) Ensure that an eligible person receiving services from the private agency's  
6 program funded under the grant is enrolled in a secondary school or its vocational  
7 or technical equivalent or in a college or technical college or is working, unless the  
8 director of the private agency determines that there is good cause for the eligible  
9 person not to be so enrolled or working.

10 (d) Ensure that an eligible person receiving services from the private agency's  
11 program is provided with intake, assessment, case planning, and case management  
12 services; skills development training in the areas of economic self-sufficiency,  
13 parenting, independent living, and life choice decision making; prenatal and other  
14 health care services, including, if necessary, mental health and alcohol and other  
15 drug abuse services; child care; and transportation. ✓

From the appropriation under  
s. 20.435 (3) (F), the

16 (4) EVALUATION. The department shall conduct or shall select an evaluator to  
17 conduct an evaluation of the grant program under this section and, by June 1, 2004,  
18 shall submit a report on that evaluation to the governor and to the appropriate  
19 standing committees under s. 13.172 (3). The evaluation shall measure the economic  
20 self-sufficiency, parenting skills, independent living skills, and life choice  
21 decision-making skills of the eligible persons who received services under the  
22 program and any other criteria that the department determines to be appropriate for  
23 evaluation.

24 SECTION 4. 48.13 (9) of the statutes is amended to read:

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24

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1           48.13 (9) Who is at least age 12 years of age, signs the petition requesting  
2 jurisdiction under this subsection and is in need of special treatment or care which  
3 the parent, guardian or legal custodian is unwilling, neglecting, unable or needs  
4 assistance to provide;

5           **SECTION 5.** 48.13 (9m) of the statutes is created to read:

6           48.13 (9m) Who is at least 12 years of age, ~~signs the petition requesting~~  
7 ~~jurisdiction under this subsection~~, is a custodial parent, as defined in s. 49.141 (1)  
8 (b), or an expectant mother, is receiving inadequate care, and is in need of a safe and  
9 structured living arrangement which the parent, guardian, or legal custodian is  
10 unwilling, neglecting, unable, or needs assistance to provide;

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11           **SECTION 6.** 48.345 (3) (cm) of the statutes is created to read:

12           48.345 (3) (cm) A group home described in s. 48.625 (1m) if the child is at least  
13 12 years of age, is a custodial parent, as defined in s. 49.141 (1) (b), or an expectant  
14 mother, is receiving inadequate care, and is in need of a safe and structured living  
15 arrangement.

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

17           48.371 (3) (intro.) At the time of placement of a child in a foster home, treatment  
18 foster home, group home or child caring institution or, if the information is not  
19 available at that time, as soon as possible after the date on which the court report  
20 or permanency plan has been submitted, but no later than 7 days after that date, the  
21 agency, as defined in s. 48.38 (1) (a), responsible for preparing the child's permanency  
22 plan shall provide to the foster parent, treatment foster parent or operator of the  
23 group home or child caring institution information contained in the court report  
24 submitted under s. 48.33 (1), 48.365 (2g), 48.425 (1), 48.831 (2) or 48.837 (4) (c) or  
25 permanency plan submitted under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63

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Except as provided in s. 48.63 (5)(d),  
the

**SECTION 7**

1 (4) or (5) (c) or 48.831 (4) (e) relating to findings or opinions of the court or agency that  
2 prepared the court report or permanency plan relating to any of the following:

3 **SECTION 8.** 48.38 (2) (d) of the statutes is amended to read:

4 48.38 (2) (d) The child was placed under a voluntary agreement between the  
5 agency and the child's parent under s. 48.63 (1) or (5) (b).  
6

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

8 48.38 (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 child was first held

10 in physical custody or placed outside of his or her home ~~under a court order~~. If the  
11 court elects not to review the permanency plan, the court shall appoint a panel to  
12 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 child or the parents of the child whose  
18 permanency plan is the subject of the review.

19 **SECTION 10.** 48.48 (3) of the statutes is amended to read:

20 48.48 (3) To accept guardianship of children when appointed by the court, and  
21 to provide special treatment and or care when directed by the court. A court may not  
22 direct the department to administer psychotropic medications to children who  
23 receive special treatment or care under this subsection.

24 **SECTION 11.** 48.57 (1) (b) of the statutes is amended to read:

25 48.57 (1) (b) To accept legal custody of children transferred to it by the court  
under s. 48.355, to accept supervision over expectant mothers of unborn children who

SEC. REV; 48.48 (7)

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1 are placed under its supervision under s. 48.355 and to provide special treatment and  
2 or care for children and expectant mothers if ordered by the court. A court may not  
3 order a county department to administer psychotropic medications to children and  
4 expectant mothers who receive special treatment or care under this paragraph.

5 **SECTION 12.** 48.57 (3n) (am) 6. c. of the statutes is amended to read:

6 48.57 (3n) (am) 6. c. The date on which the child is placed outside the long-term  
7 kinship care relative's home under a court order or under a voluntary agreement  
8 under s. 48.63 (1) or (5) (b).

9 **SECTION 13.** 48.60 (2) (d) of the statutes is amended to read:

10 48.60 (2) (d) A hospital, ~~maternity hospital, maternity home~~ or nursing home  
11 licensed, approved or supervised by the department.

12 **SECTION 14.** 48.619 of the statutes is created to read:

13 **48.619 Definition.** In this subchapter, "child" means a person under 18 years  
14 of age and also includes, for purposes of counting the number of children for whom  
15 a foster home, treatment foster home, or group home may provide care and  
16 maintenance, a person 18 years of age or over, but under 19 years of age, who is a  
17 full-time student at a secondary school or its vocational or technical equivalent, who  
18 is reasonably expected to complete the program before reaching 19 years of age, who  
19 was residing in the foster home, treatment foster home, or group home immediately  
20 prior to his or her 18th birthday, and who continues to reside in that foster home,  
21 treatment foster home, or group home.

22 **SECTION 15.** 48.62 (3) of the statutes is amended to read:

23 48.62 (3) When the department, a county department or a child welfare agency  
24 issues a license to operate a foster home or a treatment foster home, the department,  
25 county department or child welfare agency shall notify the clerk of the school district

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1 in which the foster home or treatment foster home is located that a foster home or  
2 treatment foster home has been licensed in the school district.

3 SECTION 16. 48.625 (1m) of the statutes is created to read:

4 48.625 (1m) The department may issue a license under sub. (1) authorizing a  
5 group home solely to provide a safe and structured living arrangement for children  
6 12 years of age or over who are custodial parents, as defined in s. 49.141 (1) (b), or  
7 expectant mothers, and to provide those children with training in parenting skills,  
8 including child development, family budgeting, health and nutrition, and other  
9 skills to promote the long-term economic independence of those children and the  
10 well-being of the children of those children. The department shall promulgate rules

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11 establishing standards for a group home described in this subsection. Those rules  
12 shall require such a group home to provide for the health, safety, and welfare of the  
13 child of any child custodial parent who has been placed in that group home and to  
14 have a policy governing visitation between such a child and the child's noncustodial  
15 parent.

16 SECTION 17. 48.625 (3) of the statutes is amended to read:

17 48.625 (3) This section does not apply to a foster home licensed under s. 48.62  
18 (1) (a) ~~in which care and maintenance is provided for more than 4 siblings or to a~~  
19 treatment foster home licensed under s. 48.62 (1) (b).

20 SECTION 18. 48.63 (1) of the statutes is amended to read:

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

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

12 **SECTION 19.** 48.63 (5) of the statutes is created to read:

13 48.63 (5) (a) Subsection (1) does not apply to the voluntary placement under  
 14 par. (b) of a child in a group home described in s. 48.625 (1m). Such placements may  
 15 be made only as provided in par. (b). (14)

(16) (b) If a child who is at least ~~12~~ years of age, who is a custodial parent, as defined  
 17 in s. 49.141 (1) (b), or an expectant mother, and who is in need of a safe and structured  
 18 living arrangement and the parent or guardian of the child consent, a child welfare  
 (19) agency licensed to place children in group homes, may place the child or arrange the  
 (20) placement of the child in a group home described in s. 48.625 (1m). (A voluntary  
 21 agreement to place a child in a group home described in s. 48.625 (1m) may be made  
 22 only under this paragraph, shall be in writing, and shall specifically state that the  
 23 agreement may be terminated at any time by the parent, guardian, or child. An  
 24 initial placement under this paragraph may not exceed 6 months, but may be  
 25 extended as provided in par. (d) 3. to 6. An initial placement under this paragraph

Before placing <sup>(a)</sup> the child or arranging the placement of ~~the~~ a  
 child under this paragraph, the child welfare agency shall  
 report any suspected abuse or neglect of the child as  
 required under s. 48.981 (2)(b)

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and for any child of that child

who is residing with that child

1 of a child who is under 16 years of age on the date of the initial placement may be  
2 extended as provided in par. (d) 3. to 6. no more than once.

3 (c) A permanency plan under s. 48.38 is required for each child placed in a group  
4 home under par. (b). The agency that placed the child or that arranged the placement  
5 of the child shall prepare the plan within 60 days after the placement and shall  
6 provide a copy of the plan to the child and the child's parent or guardian.

7 (d) 1. In this paragraph, "independent reviewing agency" means a person  
8 contracted with under subd. 2. to review permanency plans and placements under  
9 subds. 3. to 6. and of any children of those children

who are residing with those children

10 2. An agency that places children under par. (b) or that arranges those  
11 placements shall contract with another agency licensed under s. 48.61 (3) to place  
12 children or with a county department to review the permanency plans and  
13 placements of those children as provided in subds. 3. to 6. for that child and for any child of that child

who is residing with that child

14 3. If the agency that has placed a child under par. (b) or that has arranged the  
15 placement of the child wishes to extend the placement of the child, the agency shall  
16 prepare a revised permanency plan and submit the revised permanency plan

or plans

17 together with a request for a review of the revised permanency plan and the child's  
18 placement, to the independent reviewing agency before the expiration of the child's  
19 placement. The request shall include a statement that an extension of the child's  
20 placement would be in the best interests of the child, together with reliable and  
21 credible information in support of that statement, a statement that the child and the  
22 parent or guardian of the child consent to the extension of the child's placement, and  
23 a request that the independent reviewing agency approve an extension of the child's

or plans

24 placement. On receipt of a revised permanency plan and a request for review, the  
25 independent reviewing agency shall set a time and place for the review and shall

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1 advise the agency that placed the child or that arranged the placement of the child  
2 of the time and place of the review.

3 4. Not less than 10 days before the review, the agency that placed the child or  
4 that arranged the placement of the child shall provide a copy of the revised  
5 (5) permanency plan<sup>or plans</sup> and the request for review submitted under subd. 3. and notice of  
6 the time and place of the review to the child, the parent, guardian, and legal  
7 custodian of the child, and the operator of the group home in which the child is placed,  
8 together with notice of the issues to be determined as part of the permanency plan  
9 review and notice of the fact that those persons may have the opportunity to be heard  
10 at the review by submitting written comments to that agency or the independent  
11 reviewing agency before the review or by participating at the review.

12 5. At the review, any person specified in subd. 4. may present information  
13 relevant to the issue of extension and information relevant to the determinations  
14 specified in s. 48.38 (5) (c). After receiving that information, the independent  
15 reviewing agency shall make the determinations specified in s. 48.38 (5) (c) and  
16 determine whether an extension of the child's placement is in the best interests of  
17 the child and whether the child and the parent or guardian of the child consent to  
18 the extension. If the independent reviewing agency determines that the extension  
19 is in the best interests of the child and that the child and the parent or guardian of  
20 the child consent to the extension, the independent reviewing agency shall approve,  
21 in writing, an extension of the placement for a specified period of time not to exceed  
22 6 months, stating the reason for the approval, and the agency that placed the child  
23 or that arranged the placement of the child may extend the child's placement for the  
24 period of time approved. If the independent reviewing agency determines that the  
25 extension is not in the best interests of the child or that the child and the parent or

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1 guardian of the child do not consent to the extension, the independent reviewing  
2 agency shall, in writing, disapprove an extension of the placement, stating the  
3 reason for the disapproval, and the agency that placed the child or that arranged the  
4 placement of the child may not extend the placement of the child past the expiration  
5 date of the voluntary placement unless the agency obtains a court order placing the  
6 child in the group home after the expiration date of the voluntary placement.  
7 Notwithstanding the approval of an extension under this subdivision, the child or the  
8 parent or guardian of the child may terminate the placement at any time during the  
9 extension period.

10 6. Within 30 days after the review, the agency that prepared the revised  
11 permanency plan shall prepare a written summary of the determinations specified  
12 in s. 48.38 (5) (c) that were made under subd. 5. and shall provide a copy of that  
13 summary to the independent reviewing agency, the child, the parent, guardian, and  
14 legal custodian of the child, and the operator of the group home in which the child  
15 was placed.

16 SECTION 20. 48.64 (1) of the statutes is amended to read:

17 48.64 (1) DEFINITION. In this section, "agency" means the department of health  
18 and family services, the department of corrections, a county department or a licensed  
19 child welfare agency authorized to place children in foster homes or treatment foster  
20 homes or group homes.

21 SECTION 21. 48.64 (1r) of the statutes is amended to read:

22 48.64 (1r) NOTIFICATION OF SCHOOL DISTRICT. When an agency places a  
23 school-age child in a foster home, a treatment foster home or a group home, the  
24 agency shall notify the clerk of the school district in which the foster home, treatment

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1 foster home or group home is located that a school-age child has been placed in a  
2 foster home, treatment foster home or group home in the school district.

3 **SECTION 22.** 48.78 (1) of the statutes is amended to read:

4 48.78 (1) In this section, unless otherwise qualified, "agency" means the  
5 department, a county department, a licensed child welfare agency, or a licensed day  
6 care center ~~or a licensed maternity hospital.~~

7 **SECTION 23.** 146.82 (2) (a) 18m. of the statutes is amended to read:

8 146.82 (2) (a) 18m. If the subject of the patient health care records is a child  
9 or juvenile who has been placed in a foster home, treatment foster home, group home,  
10 child caring institution or a secured correctional facility, including a placement  
11 under s. 48.205, 48.21, 938.205 or 938.21 or for whom placement in a foster home,  
12 treatment foster home, group home, child caring institution or secured correctional  
13 facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c) or 938.33 (3)  
14 or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1),  
15 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c) or 938.33 (1), to an agency  
16 responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2),  
17 48.837 (4) (c) or 938.365 (2g), to an agency responsible for preparing a permanency  
18 plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4)  
19 (e), 938.355 (2e) or 938.38 regarding the child or juvenile or to an agency that placed  
20 the child or juvenile or arranged for the placement of the child or juvenile in any of  
21 those placements and, by any of those agencies, to any other of those agencies and,  
22 by the agency that placed the child or juvenile or arranged for the placement of the  
23 child or juvenile in any of those placements, to the foster parent or treatment foster  
24 parent of the child or juvenile or the operator of the group home, child caring

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1 institution or secured correctional facility in which the child or juvenile is placed, as  
2 provided in s. 48.371 or 938.371.

3 **SECTION 24.** 252.15 (5) (a) 19. of the statutes is amended to read:

4 252.15 (5) (a) 19. If the test was administered to a child who has been placed  
5 in a foster home, treatment foster home, group home, child caring institution or  
6 secured correctional facility, as defined in s. 938.02 (15m), including a placement  
7 under s. 48.205, 48.21, 938.205 or 938.21 or for whom placement in a foster home,  
8 treatment foster home, group home, child caring institution or secured correctional  
9 facility is recommended under s. 48.33 (4), 48.425 (1) (g), 48.837 (4) (c) or 938.33 (3)  
10 or (4), to an agency directed by a court to prepare a court report under s. 48.33 (1),  
11 48.424 (4) (b), 48.425 (3), 48.831 (2), 48.837 (4) (c) or 938.33 (1), to an agency  
12 responsible for preparing a court report under s. 48.365 (2g), 48.425 (1), 48.831 (2),  
13 48.837 (4) (c) or 938.365 (2g), to an agency responsible for preparing a permanency  
14 plan under s. 48.355 (2e), 48.38, 48.43 (1) (c) or (5) (c), 48.63 (4) or (5) (c), 48.831 (4)  
15 (e), 938.355 (2e) or 938.38 regarding the child or to an agency that placed the child  
16 or arranged for the placement of the child in any of those placements and, by any of  
17 those agencies, to any other of those agencies and, by the agency that placed the child  
18 or arranged for the placement of the child in any of those placements, to the child's  
19 foster parent or treatment foster parent or the operator of the group home, child  
20 caring institution or secured correctional facility in which the child is placed, as  
21 provided in s. 48.371 or 938.371.

22 **SECTION 25.** 938.34 (3) (cm) of the statutes is created to read:

23 938.34 (3) (cm) A group home described in s. 48.625 (1m) if the juvenile is at  
24 least 12 years of age, is a custodial parent, as defined in s. 49.141 (1) (b), or an

**BILL**

1 expectant mother, is receiving inadequate care, and is in need of a safe and  
2 structured living arrangement.

3 **SECTION 26.** 938.355 (1) of the statutes is amended to read:

4 938.355 (1) INTENT. In any order under s. 938.34 or 938.345, the court shall  
5 decide on a placement and treatment finding based on evidence submitted to the  
6 court. The disposition shall employ those means necessary to promote the objectives  
7 specified in s. 938.01. If the disposition places a juvenile who has been adjudicated  
8 delinquent outside the home under s. 938.34 (3) (c), (cm) or (d), the order shall include  
9 a finding that the juvenile's current residence will not safeguard the welfare of the  
10 juvenile or the community due to the serious nature of the act for which the juvenile  
11 was adjudicated delinquent. If the judge has determined that any of the conditions  
12 specified in s. 938.34 (4m) (b) 1., 2. or 3. applies, that determination shall be prima  
13 facie evidence that a less restrictive alternative than placement in a secured  
14 correctional facility, a secured child caring institution or a secured group home is not  
15 appropriate. If information under s. 938.331 has been provided in a court report  
16 under s. 938.33 (1), the court shall consider that information when deciding on a  
17 placement and treatment finding.

18 **SECTION 27.** 938.38 (2) (d) of the statutes is amended to read:

19 938.38 (2) (d) The juvenile was placed under a voluntary agreement between  
20 the agency and the juvenile's parent under s. 48.63 (1) or (5) (b).

21 **SECTION 28.** 938.38 (5) (a) of the statutes is amended to read:

22 938.38 (5) PLAN REVIEW (a) ~~The~~ court or a panel appointed under this  
23 paragraph shall review the permanency plan every 6 months from the date on which  
24 the juvenile was first held in physical custody or placed outside of his or her home  
25 under a court order. If the court elects not to review the permanency plan, the court

Except as provided in s. <sup>48.63</sup> ~~48.39~~ (5)(d), the

**BILL**

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

**SECTION 9258. Appropriation changes; workforce development.**

8  
9 (1) SECOND-CHANCE HOMES. (a) In the schedule under section 20.005 (3) of the  
10 statutes for the appropriation to the department of workforce development under  
11 section 20.445 (3) (dz) of the statutes, as affected by the acts of 2001, the dollar  
12 amount is decreased by ~~\$2,000,000~~ for fiscal year 2001-02 and the dollar amount is  
13 decreased by ~~\$2,000,000~~ for fiscal year 2002-03 to decrease funding for the purposes  
14 for which the appropriation is made.

15 (b) In the schedule under section 20.005 (3) of the statutes for the appropriation  
16 to the department of workforce development under section 20.445 (3) (md) of the  
17 statutes, as affected by the acts of 2001, the dollar amount is increased by ~~\$2,000,000~~  
18 for fiscal year 2001-02 and the dollar amount is increased by ~~\$2,000,000~~ for fiscal  
19 year 2002-03 to increase funding for the purposes for which the appropriation is  
20 made.

21 (END)



Insert A

1009  
Under the bill, the agency placing the child or  
=  
arranging the placement of the child in such a  
group home must, before making or arranging that  
placements, report any suspected abuse or neglect of  
the child under the child abuse reporting laws.

(end insert)

Insert 6-23

Section #. 48.02 (7) of the statutes is amended to read:

48.02 (7) "Group home" means any facility operated by a person required to be licensed by the department under s. 48.625 for the care and maintenance of 5 to 8 children.

History: 1971 c. 41 s. 12; 1971 c. 164; 1973 c. 263; 1977 c. 205, 299, 354, 418, 447, 449; 1979 c. 135, 300, 352; 1981 c. 81; 1983 a. 189, 447, 471; 1985 a. 176; 1987 a. 27, 285, 339; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 107; 1991 a. 39; 1993 a. 98, 375, 377, 385, 446, 491; 1995 a. 27 ss. 2423 to 2426p, 9126 (19), 9145 (1); 1995 a. 77, 275, 352, 448; 1997 a. 27, 104, 191, 292; 1999 a. 9.

as provided in s. 48.625 (1)

(end of insert)

Insert 7-10

1 9p

SEC. CR; 48.13 (9p)

(B)

a child who is

¶ 48.13 (9p) whose parent is alleged or has been

found to be in need of protection or services under sub.  
(9m).

~~Get insert~~

✓

Insert 7-10

Section #. 48.20 (8) of the statutes is amended to read:

the right to counsel under s. 48.23 (2)  
regardless of ability to pay

48.20 (8) If a child is held in custody, the intake worker shall notify the child's parent, guardian and legal custodian of the reasons for holding the child in custody and of the child's whereabouts unless there is reason to believe that notice would present imminent danger to the child. The parent, guardian and legal custodian shall also be notified of the time and place of the detention hearing required under s. 48.21, the nature and possible consequences of that hearing, and the right to present and cross-examine witnesses at the hearing. If the parent, guardian or legal custodian is not immediately available, the intake worker or another person designated by the court shall provide notice as soon as possible. When the child is 12 years of age or older, the child shall receive the same notice about the detention hearing as the parent, guardian or legal custodian. The intake worker shall notify both the child and the child's parent, guardian or legal custodian. When the child is an expectant mother who has been taken into custody under s. 48.19 (1) (cm) or (d) 8., the unborn child, through the unborn child's guardian ad litem, shall receive the same notice about the whereabouts of the child expectant mother, about the reasons for holding the child expectant mother in custody and about the detention hearing as the child expectant mother and her parent, guardian or legal custodian. The intake worker shall notify the child expectant mother, her parent, guardian or legal custodian and the unborn child, by the unborn child's guardian ad litem.

History: 1977 c. 354, 449; 1979 c. 300; 1983 a. 189 s. 329 (5); 1993 a. 16, 56, 98, 385; 1995 a. 27, 77; 1997 a. 292.

Insert 7-10

Section #. 48.21 (3) (d) of the statutes is amended to read:

48.21 (3) (d) Prior to the commencement of the hearing, the parent, guardian or legal custodian shall be informed by the court of the allegations that have been made or may be made, the nature and possible consequences of this hearing as compared to possible future hearings, the right to confront and cross-examine witnesses and the right to present witnesses.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292.

the right to counsel under s. 48.23 (2)  
regardless of ability to pay,

Insert 7-10

is renumbered 48.23 (2)(a) and amended

~~or proceeding under s. 48.13 (9p)~~  
~~or~~

Section #. 48.23 (2) of the statutes is amended to read:

~~is alleged to be in need of protection or services under s. 48.13 (9p) or is~~  
(a)

48.23 (2) ~~RIGHT OF PARENTS TO COUNSEL~~ Whenever a child is the subject of a proceeding involving a contested adoption or the involuntary termination of parental rights, any parent under 18 years of age who appears before the court shall be represented by counsel; but no such parent may waive counsel. A minor parent petitioning for the voluntary termination of parental rights shall be represented by a guardian ad litem. If a proceeding involves a contested adoption or the involuntary termination of parental rights, any parent 18 years old or older who appears before the court shall be represented by counsel; but the parent may waive counsel provided the court is satisfied such waiver is knowingly and voluntarily made.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292; 1999 a. 9, 149.

~~or, if the parent is under 12 years of age, the parent may be represented by a guardian ad litem instead of counsel~~

[Insert 7-10]

SEC OR: 48.23 (2)(b)

48.23 (2)(b) IF a petition under s. 48.13 (9p) is

contested, no child may be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the fact-finding hearing and subsequent proceedings.

If the petition is not contested, the child may not be placed outside his or her home unless the nonpetitioning parent is represented by counsel at the hearing

at the hearing at which the placement is made. A parent who is required under this paragraph to be

Insert 7-10

subsection

Section #. 48.23 (3) of the statutes is amended to read:

as provided in this ~~paragraph~~

strike

strike

48.23 (3) POWER OF THE COURT TO APPOINT COUNSEL. Except in proceedings under s. 48.13, at any time, upon request or on its own motion, the court may appoint counsel for the child or any party, unless the child or the party has or wishes to retain counsel of his or her own choosing. The court may not appoint counsel for any party other than the child in a proceeding under s. 48.13.

History: 1977 c. 354, 355, 447, 449; 1979 c. 300, 356; 1987 a. 27; 1987 a. 383; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 56, 107; 1991 a. 263; 1993 a. 377, 385, 395, 451, 491; 1995 a. 27, 77; 1997 a. 292; 1999 a. 9, 149.

for any party other than the  
child who is the subject of the  
proceeding

Except in proceedings under s. 48.13 (9p), the

(insert 7-10)

Section #. 48.27 (4) (a) 2. of the statutes is amended to read:

and any other party, if applicable,

48.27 (4) (a) 2. Advise the child of his or her right to legal counsel regardless of ability to pay.

History: 1977 c. 354; 1979 c. 300, 331, 359; 1983 a. 27; Sup. Ct. Order, 141 Wis. 2d xiv (1987); 1987 a. 403; 1991 a. 263, 315; 1993 a. 98, 395; 1995 a. 27, 77, 275; 1997 a. 237, 292; 1999 a. 32, 149.

(end of insert)

[Insert 8-5]

^

SEC. (R); 48.38 (2)(g)

(B)

¶ 48.38 (2)(g) The child's parent is placed in a foster home, treatment foster home, group home, child-caring institution, secure detention facility, or shelter care facility, and the child is residing with that parent.

(end of insert)

Insert 10-2

Section #. 48.625 (1) of the statutes is amended to read:

48.625 (1) Any person who receives, with or without transfer of legal custody, 5 to 8 children, to provide care and maintenance for those children shall obtain a license to operate a group home from the department. To obtain a license under this subsection to operate a group home, a person must meet the minimum requirements for a license established by the department under s. 48.67, meet the requirements specified in s. 48.685 and pay the license fee under sub. (2). A license issued under this subsection is valid until revoked or suspended, but shall be reviewed every 2 years as provided in s. 48.66 (5).

History: 1977 c. 418; 1985 a. 281; 1991 a. 39; 1993 a. 395, 446; 1995 a. 27; 1997 a. 27.

not including children who under sub. (1m)  
are not counted toward that number;

(ed of insert)

Insert 10-7

and who are placed in the group home under s.

✓  
48.345 (3) (cm) or 439.34 (3) (cm) or solely to

provide a safe and structured living arrangement

for children 14 years of age or over who are

custodial parents, as ~~is~~ defined in s. 49.141 (1) (b), or expectant

mothers and who are placed in the group home

under voluntary agreements under s. 48.63 (5)

(edit text)

Insert 10-10

In licensing a group home described in this subsection,  
the department may not count toward the number  
of children <sup>whom</sup> ~~that~~ the group home is licensed to serve  
the child of a child who is placed in the group home.

(ed & insert)

Insert 15-6

Section #. 48.981 (2) of the statutes is amended to read:

group home, as described in s. 48.625 (1m),

restet

48.981 (2) PERSONS REQUIRED TO REPORT. A physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, social worker, marriage and family therapist, professional counselor, public assistance worker, including a financial and employment planner, as defined in s. 49.141 (1) (d), school teacher, administrator or counselor, mediator under s. 767.11, child care worker in a day care center, ~~or~~ child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42 or 51.437, physical therapist, occupational therapist, dietitian, speech-language pathologist, audiologist, emergency medical technician, first responder or police or law enforcement officer having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3). A court-appointed special advocate having reasonable cause to suspect that a child seen in the course of the court-appointed special advocate's activities under s. 48.236 (3) has been abused or neglected or having reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in sub. (2m), report as provided in sub. (3). Any other person, including an attorney, having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may make such a report. Any person, including an attorney having reason to suspect that an unborn child has been abused or reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3). No person making a report under this subsection may be discharged from employment for so doing.

Cond insert

D-NOTE

Joyce:

# In reviewing this draft, please note all of the following:

# 1. The draft does not create the provision relating to counting the of the children of children placed in a 2nd-chance home as a separate paragraph in s.

48.625 (1m). Instead, the draft simply inserts a sentence in that subsection creating that requirement.

As such, the numerous cross-reference changes relating to s. 48.625 (1m) requested in the DIFs redrafting instructions are unnecessary.

# 2. Similarly, the draft does not create the child abuse reporting requirement as a separate paragraph 48.63 (5)

in s. 48.63 (5). Instead, the draft simply inserts a sentence in s. 48.63 (5)(b) creating that requirement.

As such, the numerous cross-reference changes relating to s. 48.63 (5) requested in the DIFs redrafting instructions are

unnecessary.

CHIPS

¶

3. The draft creates the CHIPS jurisdictional ground for a child of a child placed in a 2nd-chance home as s. 48.13 (9p) instead of s. 48.13 (10g) so that a reader & user of the statutes may read s. 48.13 (9m) and (9p) together without having to skip through intervening, unrelated provisions.

¶

4. The draft fleshes out more clearly in s. 48.625 (1m) DTRC's apparent intent that court-ordered children 12 or over not be mixed with voluntary children 14 or over in the same 2nd-chance home. Similarly, in s. 46.997 (1). (c) the draft only refers to voluntary children and not to court-ordered children because the grants are intended only for 2nd-chance

14 years of age or over (C)

homes serving voluntary children ~~over 14,~~

(The intent of DHS' suggested language is)

Alternatively, if ~~DHS intends~~ to permit

Mixing of court-ordered and voluntary children, then

the changes suggested for ss. ~~46.997~~ 46.997(1)(c)

and 48.625(1m) are probably not necessary as

age ~~changes~~ changes in

the ~~changes~~ ss. 46.997(1)(a) and ~~48.625~~

48.63(5)(b) are sufficient in themselves to

convey that intent.

CM

but ~~to~~ not to permit the voluntary placement of

children under 14,

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

LRB-0308/5dn  
CMM:cjs:jf

July 19, 2001

Joyce:

In reviewing this draft, please note all of the following:

1. The draft does not create the provision relating to the counting of the children of children placed in a 2nd-chance home as a separate paragraph in s. 48.625 (1m). Instead, the draft simply inserts a sentence in that subsection creating that requirement. As such, the numerous cross-reference changes relating to s. 48.625 (1m) requested in the DHFS redrafting instructions are unnecessary.
2. Similarly, the draft does not create the child abuse reporting requirement as a separate paragraph in s. 48.63 (5). Instead, the draft simply inserts a sentence in s. 48.63 (5) (b) creating that requirement. As such, the numerous cross-reference changes relating to s. 48.63 (5) requested in the DHFS redrafting instructions are unnecessary.
3. The draft creates the CHIPS jurisdictional ground for a child of a child who is in need of a 2nd-chance home as s. 48.13 (9p) instead of s. 48.13 (10g) so that a user of the statutes may read s. 48.13 (9m) and (9p) together without having to skip through intervening, unrelated provisions.
4. The draft fleshes out more clearly in s. 48.625 (1m) DHFS' apparent intent that court-ordered children 12 years of age or over not be mixed with voluntary children 14 years of age or over in the same 2nd-chance home. Similarly, in s. 46.997 (1) (c), the draft only refers to voluntary children 14 years of age or over, and not to court-ordered children 12 years of age or over, because the grants are intended only for 2nd-chance homes serving voluntary children 14 years of age or over.

Alternatively, if the intent of DHFS' suggested language is to permit mixing of court-ordered and voluntary children, but not to permit the voluntary placement of children under 14, then the charges suggested for ss. 46.997 (1) (c) and 48.625 (1m) are probably not necessary as the age changes in ss. 46.997 (1) (a) and 48.63 (5) (b) are sufficient in themselves to convey that intent.

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## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Friday, July 20, 2001 8:53 AM  
**To:** Kiel, Joyce  
**Cc:** Malaise, Gordon  
**Subject:** LRB-0308/5 (attached) (per Diane in Jeskewitz's office)  
office)