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1           **SECTION 125.** 48.422 (1) of the statutes is amended to read:

2           48.422 (1) The Except as provided in s. 48.42 (2g) (ag), the hearing on the  
3 petition to terminate parental rights shall be held within 30 days after the petition  
4 is filed. At the hearing on the petition to terminate parental rights the court shall  
5 determine whether any party wishes to contest the petition and inform the parties  
6 of their rights under sub. (4) and s. 48.423.

7           **SECTION 126.** 48.422 (2) of the statutes is amended to read:

8           48.422 (2) If Except as provided in s. 48.42 (2g) (ag), if the petition is contested  
9 the court shall set a date for a fact-finding hearing to be held within 45 days of after  
10 the hearing on the petition, unless all of the necessary parties agree to commence  
11 with the hearing on the merits immediately.

12           **SECTION 127.** 48.422 (6) (a) of the statutes is amended to read:

13           48.422 (6) (a) In the case of a nonmarital child who is not adopted or whose  
14 parents do not subsequently intermarry under s. 767.803 and for whom paternity  
15 has not been established, or for whom a declaration of paternal interest has not been  
16 filed under s. 48.025 within 14 days after the date of birth of the child or, if s. 48.42  
17 (1g) (b) applies, within 21 days after the date on which the notice under s. 48.42 (1g)  
18 (b) is mailed, the court shall hear testimony concerning the paternity of the child.  
19 Based on the testimony, the court shall determine whether all interested parties who  
20 are known have been notified under s. 48.42 (2) and (2g) (ag). If not, the court shall  
21 adjourn the hearing and order appropriate notice to be given.

22           **SECTION 128.** 48.422 (8) of the statutes is amended to read:

23           48.422 (8) If the petition for termination of parental rights is filed by an agency  
24 enumerated in s. 48.069 (1) or (2), the court shall order the agency to submit file a  
25 report to with the court as provided in s. 48.425 (1). except that, if the child is an

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1 Indian child, the court may order the agency or request the tribal child welfare  
2 department of the Indian child's tribe to file that report.

3 **SECTION 129.** 48.423 (1) of the statutes is amended to read:

4 **48.423 (1) RIGHTS TO PATERNITY DETERMINATION.** If a person appears at the  
5 hearing and claims that he is the father of the child, the court shall set a date for a  
6 hearing on the issue of paternity ~~or, if,~~ If the child is an Indian child or if it appears  
7 to the court that the determination of paternity may result in a finding that the child  
8 is an Indian child, the court shall cause notice of the hearing on the issue of paternity  
9 to be provided to the Indian child's parent, Indian custodian, and tribe under s. 48.42  
10 (2g) (ag), and the hearing may not be held until at least 10 days after receipt of notice  
11 under s. 48.42 (2g) (ag) by the Indian child's parent, Indian custodian, and tribe or  
12 until at least 25 days after receipt of the notice by the U.S. secretary of the interior.  
13 On request of the Indian child's parent, Indian custodian, or tribe, the court shall  
14 grant a continuance of up to 20 additional days to enable the requester to prepare  
15 for the hearing. If all parties agree, the court may immediately commence hearing  
16 testimony concerning the issue of paternity. The court shall inform the person  
17 claiming to be the father of the child of any right to counsel under s. 48.23. The person  
18 claiming to be the father of the child must prove paternity by clear and convincing  
19 evidence. A person who establishes his paternity of the child under this section may  
20 further participate in the termination of parental rights proceeding only if the person  
21 meets the conditions specified in sub. (2) or meets a condition specified in s. 48.42 (2)  
22 ~~or~~ (b) or (bm).

23 **SECTION 130.** 48.424 (1) of the statutes is renumbered 48.424 (1) (intro.) and  
24 amended to read:

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1           48.424 (1) The purpose of the fact-finding hearing is to determine whether  
2 ~~grounds exist for the termination of parental rights in those cases where the~~  
3 ~~termination in cases in which the petition~~ was contested at the hearing on the  
4 petition under s. 48.422 all of the following:

5           (a) Whether grounds exist for the termination of parental rights.

6           **SECTION 131.** 48.424 (1) (b) of the statutes is created to read:

7           48.424 (1) (b) Whether the allegations specified in s. 48.42 (1) (e) have been  
8 proved in cases in which services have been ordered by the court.

9           **SECTION 132.** 48.424 (1) (c) of the statutes is created to read:

10          48.424 (1) (c) Whether the allegations specified in s. 48.42 (1) (f) have been  
11 proved in cases in which the child is an Indian child.

12          **SECTION 133.** 48.424 (2) (intro.) of the statutes is amended to read:

13          48.424 (2) (intro.) The fact-finding hearing shall be conducted according to the  
14 procedure specified in s. 48.31 except that as follows:

15          **SECTION 134.** 48.424 (2) (a) of the statutes is amended to read:

16          48.424 (2) (a) The court may exclude the child from the hearing; ~~and,~~

17          **SECTION 135.** 48.424 (3) of the statutes is amended to read:

18          48.424 (3) If the facts are determined by a jury, the jury may only decide  
19 whether any grounds for the termination of parental rights have been ~~proven~~ proved,  
20 whether the allegations specified in s. 48.42 (1) (e) have been proved in cases in which  
21 services have been ordered by the court, and whether the allegations specified in s.  
22 48.42 (1) (f) have been proved in cases in which the child is an Indian child. The court  
23 shall decide what disposition is in the best interest of the child.

24          **SECTION 136.** 48.424 (4) (intro.) of the statutes is amended to read:

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1           48.424 (4) (intro.) If grounds for the termination of parental rights are found  
2 by the court or jury, the court shall find the parent unfit. A finding of unfitness shall  
3 not preclude a dismissal of a petition under s. 48.427 (2). The court shall then proceed  
4 immediately to hear evidence and motions related to the dispositions enumerated in  
5 s. 48.427. The Except as provided in s. 48.42 (2g) (ag), the court may delay making  
6 the disposition and set a date for a dispositional hearing no later than 45 days after  
7 the fact-finding hearing if any of the following apply:

8           **SECTION 137.** 48.424 (4) (a) of the statutes is amended to read:

9           48.424 (4) (a) All parties to the proceeding agree; ~~or,~~

10          **SECTION 138.** 48.424 (4) (b) of the statutes is amended to read:

11          48.424 (4) (b) The court has not yet received a report to the court on the history  
12 of the child as provided in s. 48.425 ~~from an agency enumerated in s. 48.069 (1) or~~  
13 ~~(2) and the court now directs the agency to prepare this report to be considered~~ orders  
14 an agency enumerated in s. 48.069 (1) or (2) to file that report with the court, or, in  
15 the case of an Indian child, now orders that agency or requests the tribal child welfare  
16 department of the Indian child's tribe to file such a report, before the court makes the  
17 disposition on the petition.

18          **SECTION 139.** 48.424 (5) of the statutes is amended to read:

19          48.424 (5) If the court delays making a permanent disposition under sub. (4),  
20 it may transfer temporary custody of the child to an agency for placement of the child  
21 until the dispositional hearing. Placement of an Indian child under this subsection  
22 shall comply with the order of placement preference under s. 48.028 (7) (b) or, if  
23 applicable, s. 48.028 (7) (c), unless the agency finds good cause, as described in s.  
24 48.028 (7) (e), for departing from that order.

25          **SECTION 140.** 48.425 (1) (intro.) of the statutes is amended to read:

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1           48.425 (1) (intro.) ~~If the petition for the termination of parental rights is filed~~  
2 ~~by an agency, or if the court orders an agency enumerated under s. 48.069 (1) or (2)~~  
3 ~~to file a report under s. 48.422 (8) or 48.424 (4) (b) or requests the tribal child welfare~~  
4 ~~department of an Indian child's tribe to file such a report, the agency or tribal child~~  
5 ~~welfare department, if that department consents,~~ shall file a report with the court  
6 which shall include:

7           **SECTION 141.** 48.425 (1) (cm) of the statutes is created to read:

8           48.425 (1) (cm) If the child is an Indian child, specific information showing that  
9 continued custody of the child by the parent or Indian custodian is likely to result in  
10 serious emotional or physical damage to the child under s. 48.028 (4) (e) 1. and, if the  
11 Indian child has previously been adjudged to be in need of protection or services,  
12 specific information showing that the agency or person responsible for providing  
13 services to the Indian child and his or her family has made active efforts under s.  
14 48.028 (4) (e) 2. to prevent the breakup of the Indian family and that those efforts  
15 have proved unsuccessful.

16           **SECTION 142.** 48.427 (5) of the statutes is created to read:

17           48.427 (5) (cm) In placing an Indian child in a preadoptive placement following  
18 a transfer of guardianship and custody under sub. (3m) or (3p) or in placing an Indian  
19 child in sustaining care under sub. (4), the court or an agency specified in sub. (3m)  
20 (a) 1. to 4. or (am) shall comply with the order of placement preference under s. 48.028  
21 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court or agency finds good cause,  
22 as described in s. 48.028 (7) (e), for departing from that order.

23           **SECTION 143.** 48.427 (6) (b) 4. of the statutes is created to read:

24           48.427 (6) (b) 4. If the child is or may be an Indian child, information relating  
25 to the child's membership or eligibility for membership in an Indian tribe.

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1           **SECTION 144.** 48.428 (2) (a) of the statutes is amended to read:

2           48.428 (2) (a) Except as provided in par. (b), when a court places a child in  
3 sustaining care after an order under s. 48.427 (4), the court shall transfer legal  
4 custody of the child to the county department, the department, in a county having  
5 a population of 500,000 or more, or a licensed child welfare agency, transfer  
6 guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4. or (am), and  
7 place the child in the home of a licensed foster parent, licensed treatment foster  
8 parent, or kinship care relative with whom the child has resided for 6 months or  
9 longer. In placing an Indian child in sustaining care, the court shall comply with the  
10 order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c),  
11 unless the court finds good cause, as described in s. 48.028 (7) (e), for departing from  
12 that order. Pursuant to such a placement, ~~this~~ that licensed foster parent, licensed  
13 treatment foster parent, or kinship care relative shall be a sustaining parent with  
14 the powers and duties specified in sub. (3).

15           **SECTION 145.** 48.428 (2) (b) of the statutes is amended to read:

16           48.428 (2) (b) When a court places a child in sustaining care after an order  
17 under s. 48.427 (4) with a person who has been appointed as the guardian of the child  
18 under s. 48.977 (2), the court may transfer legal custody of the child to the county  
19 department, the department, in a county having a population of 500,000 or more, or  
20 a licensed child welfare agency, transfer guardianship of the child to an agency listed  
21 in s. 48.427 (3m) (a) 1. to 4. or (am), and place the child in the home of a licensed foster  
22 parent, licensed treatment foster parent, or kinship care relative with whom the  
23 child has resided for 6 months or longer. In placing an Indian child in sustaining  
24 care, the court shall comply with the order of placement preference under s. 48.028  
25 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described

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1 in s. 48.028 (7) (e), for departing from that order. Pursuant to such a placement, that  
2 licensed foster parent, licensed treatment foster parent, or kinship care relative shall  
3 be a sustaining parent with the powers and duties specified in sub. (3). If the court  
4 transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.  
5 or (am), the court shall terminate the guardianship under s. 48.977.

6 **SECTION 146.** 48.43 (5) (bm) of the statutes is created to read:

7 48.43 (5) (bm) If the child is an Indian child, the court shall also provide notice  
8 of the hearing under par. (b) to the Indian child's tribe in the manner specified in s.  
9 48.028 (4) (a). No hearing may be held under par. (b) until at least 10 days after  
10 receipt of notice of the hearing by the Indian child's tribe or until at least 25 days after  
11 receipt of notice of the hearing by the U.S. secretary of the interior. On request of the  
12 Indian child's tribe, the court shall grant a continuance of up to 20 additional days  
13 to enable the tribe to prepare for the hearing.

14 **SECTION 147.** 48.43 (5) (c) of the statutes is amended to read:

15 48.43 (5) (c) Following the hearing, the court shall make all of the  
16 determinations specified under s. 48.38 (5) (c), except the determinations relating to  
17 the child's parents. The court may amend the order under sub. (1) to transfer the  
18 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.  
19 to 4. or (am) that consents to the transfer, if the court determines that the transfer  
20 is in the child's best interest. If an Indian child's guardianship and custody are  
21 transferred under this paragraph, the agency consenting to the transfer shall comply  
22 with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s.  
23 48.028 (7) (c) in placing the child, unless the agency finds good cause, as described  
24 in s. 48.028 (7) (e), for departing from that order. If an order is amended, the agency  
25 that prepared the permanency plan shall revise the plan to conform to the order and

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1 shall file a copy of the revised plan with the court. Each plan filed under this  
2 paragraph shall be made a part of the court order.

3 **SECTION 148.** 48.43 (5m) of the statutes is amended to read:

4 48.43 (5m) Either the court or the agency that prepared the permanency plan  
5 shall furnish a copy of the original plan and each revised plan to the child, if he or  
6 she is 12 years of age or over, and to the child's foster parent, the child's treatment  
7 foster parent, or the operator of the facility in which the child is living, and, if the  
8 child is an Indian child, to the Indian child's tribe.

9 **SECTION 149.** 48.43 (6) (a) of the statutes is amended to read:

10 48.43 (6) (a) Judgments under this subchapter terminating parental rights are  
11 final and are appealable under s. 808.03 (1) according to the procedure specified in  
12 s. 809.107 and are subject to a petition for rehearing or a motion for relief only as  
13 provided in s. 48.46 (1m) and (2) and, in the case of an Indian child, s. 48.028 (5) (c)  
14 and (6). The attorney representing a person during a proceeding under this  
15 subchapter shall continue representation of that person by filing a notice of intent  
16 to appeal under s. 809.107 (2), unless the attorney has been previously discharged  
17 during the proceeding by the person or by the trial court.

18 **SECTION 150.** 48.43 (6) (c) of the statutes is amended to read:

19 48.43 (6) (c) In Except as provided in s. 48.028 (5) (c) and (6), in no event may  
20 any person, for any reason, collaterally attack a judgment terminating parental  
21 rights more than one year after the date on which the time limit for filing an appeal  
22 from the judgment has expired, or more than one year after the date on which all  
23 appeals from the judgment, if any were filed, have been decided, whichever is later.

24 **SECTION 151.** 48.46 (2) of the statutes is amended to read:

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1           48.46 (2) A parent who has consented to the termination of his or her parental  
2 rights under s. 48.41 or who did not contest the petition initiating the proceeding in  
3 which his or her parental rights were terminated may move the court for relief from  
4 the judgment on any of the grounds specified in s. 806.07 (1) (a), (b), (c), (d) or (f). Any  
5 such motion shall be filed within 30 days after the entry of the judgment or order  
6 terminating parental rights, unless the parent files a timely notice of intent to  
7 pursue relief from the judgment under s. 808.04 (7m), in which case the motion shall  
8 be filed within the time permitted by s. 809.107 (5). A motion under this subsection  
9 does not affect the finality or suspend the operation of the judgment or order  
10 terminating parental rights. Motions under this subsection or s. 48.028 (5) (c) or (6)  
11 and appeals to the court of appeals shall be the exclusive remedies for such a parent  
12 to obtain a new hearing in a termination of parental rights proceeding.

13           **SECTION 152.** 48.48 (3m) (intro.) of the statutes is amended to read:

14           48.48 (3m) (intro.) To accept appointment by ~~an American Indian~~ a tribal court  
15 in this state as guardian of a child for the purpose of making an adoptive placement  
16 for the child if all of the following conditions exist:

17           **SECTION 153.** 48.48 (8m) of the statutes is amended to read:

18           48.48 (8m) To enter into agreements with ~~American Indian~~ tribes in this state  
19 to implement the ~~Indian child welfare act~~ federal Indian Child Welfare Act, 25 USC  
20 1911 to 1963.

21           **SECTION 154.** 48.485 of the statutes is amended to read:

22           **48.485 Transfer of ~~tribal Indian~~ children to department for adoption.**

23 If the department accepts guardianship or legal custody or both from ~~an American~~  
24 ~~Indian~~ a tribal court under s. 48.48 (3m), the department shall seek a permanent  
25 adoptive placement for the child. If a permanent adoptive placement is not in

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1 progress within 2 years after entry of the termination of parental rights order by the  
2 tribal court, the department may petition the tribal court to transfer legal custody  
3 or guardianship of the Indian child back to the Indian tribe, except that the  
4 department may not petition the tribal court to transfer back to ~~a~~ an Indian tribe  
5 legal custody or guardianship of ~~a~~ an Indian child who was initially taken into  
6 custody under s. 48.195 (1).

7 **SECTION 155.** 48.487 (2) of the statutes, as affected by 2007 Wisconsin Act 20,  
8 is amended to read:

9 **48.487 (2) ADOLESCENT SELF-SUFFICIENCY SERVICES.** From the allocation under  
10 sub. (1m), the department may provide a grant annually in the amount of \$85,000  
11 to the elected governing body of ~~a federally recognized American~~ an Indian tribe ~~or~~  
12 ~~band~~ to provide services for adolescent parents which shall emphasize high school  
13 graduation and vocational preparation, training, and experience and may be  
14 structured so as to strengthen the adolescent parent's capacity to fulfill parental  
15 responsibilities by developing social skills and increasing parenting skills. The  
16 Indian tribe ~~or band~~ seeking to receive a grant to provide these services shall develop  
17 a proposed service plan that is approved by the department.

18 **SECTION 156.** 48.487 (3) (b) of the statutes, as affected by 2007 Wisconsin Act  
19 20, is amended to read:

20 **48.487 (3) (b)** From the allocation under sub. (1m), the department may provide  
21 a grant annually in the amount of \$65,000 to the elected governing body of ~~a federally~~  
22 ~~recognized American~~ an Indian tribe ~~or band~~ to provide to high-risk adolescents  
23 pregnancy and parenthood prevention services which shall be structured so as to  
24 increase development of decision-making and communications skills, promote

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1 graduation from high school, and expand career and other options and which may  
2 address needs of adolescents with respect to pregnancy prevention.

3 **SECTION 157.** 48.487 (4m) (b) (intro.) of the statutes, as affected by 2007  
4 Wisconsin Act 20, is amended to read:

5 48.487 (4m) (b) (intro.) From the allocation under sub. (1m), the department  
6 may provide a grant annually in the amount of \$60,000 to the elected governing body  
7 of ~~a federally recognized American~~ an Indian tribe ~~or band~~ for the provision of  
8 information to members of the Indian tribe ~~or band~~ in order to increase community  
9 knowledge about problems of adolescents and information to and activities for  
10 adolescents, particularly female adolescents, in order to enable the adolescents to  
11 develop skills with respect to all of the following:

12 **SECTION 158.** 48.487 (4m) (c) of the statutes, as affected by 2007 Wisconsin Act  
13 20, is amended to read:

14 48.487 (4m) (c) Each funded tribal project under par. (b) shall provide services  
15 in areas of the state as approved by the Indian tribe ~~or band~~ and the department.  
16 The department shall determine the boundaries of the regional areas prior to  
17 soliciting project grant applications.

18 **SECTION 159.** 48.487 (4m) (d) of the statutes, as affected by 2007 Wisconsin Act  
19 20, is amended to read:

20 48.487 (4m) (d) Prior to making grants to applying Indian tribes ~~or bands~~  
21 under par. (b), the department shall consider whether and how the applying Indian  
22 tribe ~~or band~~ proposes to coordinate its services with other public or private  
23 resources, programs, or activities in the region and the state.

24 **SECTION 160.** 48.563 (3) of the statutes, as affected by 2007 Wisconsin Act 20,  
25 is amended to read:

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1           48.563 **(3)** TRIBAL CHILD CARE. For child care services under 42 USC 9858, the  
2           department shall distribute not more than \$412,800 in each fiscal year from the  
3           appropriation account under s. 20.437 (1) (b) to ~~federally recognized American~~  
4           ~~Indian tribes or bands. A tribe or band. An Indian tribe~~ that receives funding under  
5           this subsection shall use that funding to provide child care for an eligible child, as  
6           defined in 42 USC 9858n (4).

7           **SECTION 161.** 48.565 (intro.) of the statutes, as created by 2007 Wisconsin Act  
8           20, is amended to read:

9           **48.565 Carry-over of children and family aids funds.** (intro.) Funds  
10          allocated by the department under s. 48.569 (1) (d) but not spent or encumbered by  
11          counties, governing bodies of ~~federally recognized American~~ Indian tribes, or private  
12          nonprofit organizations by December 31 of each year and funds recovered under s.  
13          48.569 (2) (b) and deposited into the appropriation account under s. 20.437 (1) (b)  
14          lapse to the general fund on the succeeding January 1 unless carried forward to the  
15          next calendar year under s. 20.437 (1) (b) or as follows:

16          **SECTION 162.** 48.57 (3p) (h) 2. of the statutes, as affected by 2007 Wisconsin Act  
17          20, is amended to read:

18          48.57 **(3p)** (h) 2. The request for review shall be filed with the director of the  
19          county department or, in a county having a population of 500,000 or more, with the  
20          person designated by the secretary to receive requests for review filed under this  
21          subdivision. If the governing body of ~~a federally recognized American~~ an Indian  
22          tribe ~~or band~~ has entered into an agreement under sub. (3t) to administer the  
23          program under this subsection and sub. (3m), the request for review shall be filed  
24          with the person designated by that governing body to receive requests for review filed  
25          under this subdivision.

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1           **SECTION 163.** 48.57 (3p) (h) 3. (intro.) of the statutes, as affected by 2007  
2 Wisconsin Act 20, is amended to read:

3           48.57 **(3p)** (h) 3. (intro.) The director of the county department, the person  
4 designated by the governing body of ~~a federally recognized American~~ an Indian tribe  
5 ~~or band~~ or, in a county having a population of 500,000 or more, the person designated  
6 by the secretary shall review the denial of payments or the prohibition on  
7 employment or being an adult resident to determine if the conviction record on which  
8 the denial or prohibition is based includes any arrests, convictions, or penalties that  
9 are likely to adversely affect the child or the ability of the kinship care relative to care  
10 for the child. In reviewing the denial or prohibition, the director of the county  
11 department, the person designated by the governing body of the ~~federally recognized~~  
12 ~~American~~ Indian tribe ~~or band~~ or the person designated by the secretary shall  
13 consider all of the following factors:

14           **SECTION 164.** 48.57 (3p) (h) 4. of the statutes, as affected by 2007 Wisconsin Act  
15 20, is amended to read:

16           48.57 **(3p)** (h) 4. If the director of the county department, the person designated  
17 by the governing body of the ~~federally recognized American~~ Indian tribe ~~or band~~ or,  
18 in a county having a population of 500,000 or more, the person designated by the  
19 secretary determines that the conviction record on which the denial of payments or  
20 the prohibition on employment or being an adult resident is based does not include  
21 any arrests, convictions, or penalties that are likely to adversely affect the child or  
22 the ability of the kinship care relative to care for the child, the director of the county  
23 department, the person designated by the governing body of the ~~federally recognized~~  
24 ~~American~~ Indian tribe ~~or band~~, or the person designated by the secretary may  
25 approve the making of payments under sub. (3m) or may permit a person receiving

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1 payments under sub. (3m) to employ a person in a position in which that person  
2 would have regular contact with the child for whom payments are being made or  
3 permit a person to be an adult resident.

4 **SECTION 165.** 48.57 (3t) of the statutes is amended to read:

5 48.57 (3t) Notwithstanding subs. (3m), (3n), and (3p), the department may  
6 enter into an agreement with the governing body of ~~a federally recognized American~~  
7 an Indian tribe ~~or band~~ to allow that governing body to administer the program  
8 under subs. (3m), (3n), and (3p) within the boundaries of ~~that~~ the reservation of the  
9 Indian tribe. Any agreement under this subsection relating to the administration  
10 of the program under sub. (3m) shall specify the person with whom a request for  
11 review under sub. (3p) (h) 2. may be filed and the person who has been designated  
12 by the governing body to conduct the review under sub. (3p) (h) 3. and make the  
13 determination under sub. (3p) (h) 4. Any agreement under this subsection relating  
14 to the administration of the program under sub. (3n) shall specify who is to make any  
15 determination as to whether a conviction record is satisfactory.

16 **SECTION 166.** 48.63 (1) of the statutes, as affected by 2007 Wisconsin Act 20,  
17 is amended to read:

18 48.63 (1) Acting under court order or voluntary agreement, the child's parent  
19 ~~or guardian, or Indian custodian,~~ or the department, the department of corrections,  
20 a county department, or a child welfare agency licensed to place children in foster  
21 homes, treatment foster homes, or group homes may place a child or negotiate or act  
22 as intermediary for the placement of a child in a foster home, treatment foster home,  
23 or group home. Voluntary agreements under this subsection may not be used for  
24 placements in facilities other than foster, treatment foster, or group homes and may  
25 not be extended. A foster home or treatment foster home placement under a

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1 voluntary agreement may not exceed 180 days from the date on which the child was  
2 removed from the home under the voluntary agreement. A group home placement  
3 under a voluntary agreement may not exceed 15 days from the date on which the  
4 child was removed from the home under the voluntary agreement, except as provided  
5 in sub. (5). These time limitations do not apply to placements made under s. 48.345,  
6 938.183, 938.34, or 938.345. Voluntary agreements may be made only under this  
7 subsection and sub. (5) (b) and shall be in writing and shall specifically state that the  
8 agreement may be terminated at any time by the parent or, guardian, or Indian  
9 custodian or by the child if the child's consent to the agreement is required. In the  
10 case of an Indian child who is placed under this subsection by the voluntary  
11 agreement of the Indian child's parent or Indian custodian, the voluntary consent of  
12 the parent or Indian custodian to the placement shall be given as provided in s.  
13 48.028 (5) (a). The child's consent to the agreement is required whenever the child  
14 is 12 years of age or older. If a county department, the department, or the department  
15 of corrections places a child or negotiates or acts as intermediary for the placement  
16 of a child under this subsection, the voluntary agreement shall also specifically state  
17 that the county department, department, or department of corrections has  
18 placement and care responsibility for the child as required under 42 USC 672 (a) (2)  
19 and has primary responsibility for providing services to the child.

20 **SECTION 167.** 48.63 (4) of the statutes is amended to read:

21 48.63 (4) A permanency plan under s. 48.38 is required for each child placed  
22 in a foster home or treatment foster home under sub. (1). If the child is living in a  
23 foster home or treatment foster home under a voluntary agreement, the agency that  
24 negotiated or acted as intermediary for the placement shall prepare the permanency  
25 plan within 60 days after the date on which the child was removed from his or her

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1 home under the voluntary agreement. A copy of each plan shall be provided to the  
2 child if he or she is 12 years of age or over ~~and~~, to the child's parent or guardian, and,  
3 if the child is an Indian child, to the Indian child's Indian custodian and tribe. If the  
4 agency that arranged the voluntary placement intends to seek a court order to place  
5 the child outside of his or her home at the expiration of the voluntary placement, the  
6 agency shall prepare a revised permanency plan and file that revised plan with the  
7 court prior to the date of the hearing on the proposed placement.

8 **SECTION 168.** 48.63 (5) (b) of the statutes is amended to read:

9 48.63 (5) (b) If a child who is at least 14 years of age, who is a custodial parent,  
10 as defined in s. 49.141 (1) (b), or an expectant mother, and who is in need of a safe  
11 and structured living arrangement and the parent ~~or~~, guardian, or Indian custodian  
12 of the child consent, a child welfare agency licensed to place children in group homes  
13 may place the child or arrange the placement of the child in a group home described  
14 in s. 48.625 (1m). Before placing a child or arranging the placement of a child under  
15 this paragraph, the child welfare agency shall report any suspected abuse or neglect  
16 of the child as required under s. 48.981 (2). A voluntary agreement to place a child  
17 in a group home described in s. 48.625 (1m) may be made only under this paragraph,  
18 shall be in writing, and shall specifically state that the agreement may be terminated  
19 at any time by the parent, guardian, Indian custodian, or child. In the case of an  
20 Indian child who is placed in a group home under this paragraph by the voluntary  
21 agreement of the Indian child's parent or Indian custodian, the voluntary consent of  
22 the parent or Indian custodian to the placement shall be given as provided in s.  
23 48.028 (5) (a). An initial placement under this paragraph may not exceed 180 days  
24 from the date on which the child was removed from the home under the voluntary  
25 agreement, but may be extended as provided in par. (d) 3. to 6. An initial placement

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

3 **SECTION 169.** 48.63 (5) (c) of the statutes is amended to read:

4 48.63 (5) (c) A permanency plan under s. 48.38 is required for each child placed  
5 in a group home under par. (b) and for any child of that child who is residing with that  
6 child. The agency that placed the child or that arranged the placement of the child  
7 shall prepare the plan within 60 days after the date on which the child was removed  
8 from his or her home under the voluntary agreement and shall provide a copy of the  
9 plan to the child ~~and~~, the child's parent or guardian, and, if the child is an Indian  
10 child, the Indian child's Indian custodian and tribe.

11 **SECTION 170.** 48.63 (5) (d) 3. of the statutes is amended to read:

12 48.63 (5) (d) 3. If the agency that has placed a child under par. (b) or that has  
13 arranged the placement of the child wishes to extend the placement of the child, the  
14 agency shall prepare a revised permanency plan for that child and for any child of  
15 that child who is residing with that child and submit the revised permanency plan  
16 or plans, together with a request for a review of the revised permanency plan or plans  
17 and the child's placement, to the independent reviewing agency before the expiration  
18 of the child's placement. The request shall include a statement that an extension of  
19 the child's placement would be in the best interests of the child, together with reliable  
20 and credible information in support of that statement, a statement that the child and  
21 the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension of  
22 the child's placement, and a request that the independent reviewing agency approve  
23 an extension of the child's placement. On receipt of a revised permanency plan or  
24 plans and a request for review, the independent reviewing agency shall set a time and

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

3 **SECTION 171.** 48.63 (5) (d) 4. of the statutes is amended to read:

4 48.63 (5) (d) 4. Not less than 10 days before the review, the agency that placed  
5 the child or that arranged the placement of the child shall provide a copy of the  
6 revised permanency plan or plans and the request for review submitted under subd.  
7 3. and notice of the time and place of the review to the child, the parent, guardian,  
8 and legal custodian of the child, ~~and~~ the operator of the group home in which the child  
9 is placed, and, if the child is an Indian child, the Indian child's Indian custodian and  
10 tribe, together with notice of the issues to be determined as part of the permanency  
11 plan review and notice of the fact that those persons may have the opportunity to be  
12 heard at the review by submitting written comments to that agency or the  
13 independent reviewing agency before the review or by participating at the review.

14 **SECTION 172.** 48.63 (5) (d) 5. of the statutes is amended to read:

15 48.63 (5) (d) 5. At the review, any person specified in subd. 4. may present  
16 information relevant to the issue of extension and information relevant to the  
17 determinations specified in s. 48.38 (5) (c). After receiving that information, the  
18 independent reviewing agency shall make the determinations specified in s. 48.38  
19 (5) (c) and determine whether an extension of the child's placement is in the best  
20 interests of the child and whether the child and the parent ~~or~~, guardian, or Indian  
21 custodian of the child consent to the extension. If the independent reviewing agency  
22 determines that the extension is in the best interests of the child and that the child  
23 and the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension,  
24 the independent reviewing agency shall approve, in writing, an extension of the  
25 placement for a specified period of time not to exceed 6 months, stating the reason

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

14 **SECTION 173.** 48.63 (5) (d) 6. of the statutes is amended to read:

15 48.63 (5) (d) 6. Within 30 days after the review, the agency that prepared the  
16 revised permanency plan or plans shall prepare a written summary of the  
17 determinations specified in s. 48.38 (5) (c) that were made under subd. 5. and shall  
18 provide a copy of that summary to the independent reviewing agency, the child, the  
19 parent, guardian, and legal custodian of the child, ~~and~~ the operator of the group home  
20 in which the child was placed, and, if the child is an Indian child, the Indian child's  
21 Indian custodian and tribe.

22 **SECTION 174.** 48.645 (1) (a) of the statutes, as affected by 2007 Wisconsin Act  
23 20, is amended to read:

24 48.645 (1) (a) The child is living in a foster home or treatment foster home  
25 licensed under s. 48.62 if a license is required under that section, in a foster home

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1 or treatment foster home located within the boundaries of a ~~federally recognized~~  
2 ~~American Indian~~ reservation in this state and licensed by the tribal governing body  
3 of the reservation, in a group home licensed under s. 48.625, in a subsidized  
4 guardianship home under s. 48.62 (5), or in a residential care center for children and  
5 youth licensed under s. 48.60, and has been placed in the foster home, treatment  
6 foster home, group home, subsidized guardianship home, or center by a county  
7 department under s. 46.215, 46.22, or 46.23, by the department, or by a ~~federally~~  
8 ~~recognized American Indian tribal~~ governing body of an Indian tribe in this state  
9 under an agreement with a county department under s. 46.215, 46.22, or 46.23.

10 **SECTION 175.** 48.645 (2) (a) 1. of the statutes, as affected by 2007 Wisconsin Act  
11 20, is amended to read:

12 48.645 (2) (a) 1. A nonrelative who cares for the dependent child in a foster  
13 home or treatment foster home having a license under s. 48.62, in a foster home or  
14 treatment foster home located within the boundaries of a ~~federally recognized~~  
15 ~~American Indian~~ reservation in this state and licensed by the tribal governing body  
16 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian  
17 or interim caretaker under s. 48.62 (5) who cares for the dependent child, or a minor  
18 custodial parent who cares for the dependent child, regardless of the cause or  
19 prospective period of dependency. The state shall reimburse counties pursuant to the  
20 procedure under s. 48.569 (2) and the percentage rate of participation set forth in s.  
21 48.569 (1) (d) for aid granted under this section except that if the child does not have  
22 legal settlement in the granting county, state reimbursement shall be at 100%. The  
23 county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48  
24 (17) shall determine the legal settlement of the child. A child under one year of age

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1 shall be eligible for aid under this subsection irrespective of any other residence  
2 requirement for eligibility within this section.

3 **SECTION 176.** 48.645 (2) (a) 3. of the statutes, as affected by 2007 Wisconsin Act  
4 20, is amended to read:

5 48.645 (2) (a) 3. A county or, in a county having a population of 500,000 or more,  
6 the department, when the child is placed in a licensed foster home, treatment foster  
7 home, group home, or residential care center for children and youth or in a subsidized  
8 guardianship home by a licensed child welfare agency or by a ~~federally recognized~~  
9 ~~American Indian tribal governing body of an Indian tribe~~ in this state or by its  
10 designee, if the child is in the legal custody of the county department under s. 46.215,  
11 46.22, or 46.23 or the department under s. 48.48 (17) or if the child was removed from  
12 the home of a relative as a result of a judicial determination that continuance in the  
13 home of the relative would be contrary to the child's welfare for any reason and the  
14 placement is made under an agreement with the county department or the  
15 department.

16 **SECTION 177.** 48.645 (2) (a) 4. of the statutes, as affected by 2007 Wisconsin Act  
17 20, is amended to read:

18 48.645 (2) (a) 4. A licensed foster home, treatment foster home, group home,  
19 or residential care center for children and youth or a subsidized guardianship home  
20 when the child is in the custody or guardianship of the state, when the child is a ward  
21 of an ~~American Indian~~ a tribal court in this state and the placement is made under  
22 an agreement between the department and the ~~tribal governing body of the Indian~~  
23 ~~tribe of the tribal court~~, or when the child was part of the state's direct service case  
24 load and was removed from the home of a relative as a result of a judicial

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

3 **SECTION 178.** 48.645 (2) (b) of the statutes, as affected by 2007 Wisconsin Act  
4 20, is amended to read:

5 48.645 (2) (b) Notwithstanding par. (a), aid under this section may not be  
6 granted for placement of a child in a foster home or treatment foster home licensed  
7 by a ~~federally recognized American Indian tribal governing body~~ of an Indian tribe,  
8 for placement of a child in a foster home, treatment foster home, group home,  
9 subsidized guardianship home, or residential care center for children and youth by  
10 a ~~tribal governing body~~ of an Indian tribe or its designee, or for the placement of a  
11 child who is a ward of a tribal court if the ~~tribal governing body~~ of the Indian tribe  
12 of the tribal court is receiving or is eligible to receive funds from the federal  
13 government for that type of placement.

14 **SECTION 179.** 48.685 (1) (br) of the statutes is repealed.

15 **SECTION 180.** 48.685 (1) (e) of the statutes is repealed.

16 **SECTION 181.** 48.685 (5) (a) of the statutes, as affected by 2007 Wisconsin Act  
17 20, is amended to read:

18 48.685 (5) (a) Subject to par. (bm), the department may license to operate an  
19 entity, a county department may certify under s. 48.651, a county department or a  
20 child welfare agency may license under s. 48.62 and a school board may contract with  
21 under s. 120.13 (14) a person who otherwise may not be licensed, certified or  
22 contracted with for a reason specified in sub. (4m) (a) 1. to 5., and an entity may  
23 employ, contract with, or permit to reside at the entity a person who otherwise may  
24 not be employed, contracted with, or permitted to reside at the entity for a reason  
25 specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the

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1 county department, the child welfare agency, or the school board or, in the case of an  
2 entity that is located within the boundaries of a reservation, to the person or body  
3 designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence  
4 and in accordance with procedures established by the department by rule or by the  
5 tribe that he or she has been rehabilitated.

6 **SECTION 182.** 48.685 (5d) (a) (intro.) of the statutes is amended to read:

7 48.685 (5d) (a) (intro.) Any Indian tribe that chooses to conduct rehabilitation  
8 reviews under sub. (5) shall submit to the department a rehabilitation review plan  
9 that includes all of the following:

10 **SECTION 183.** 48.685 (5d) (a) 2. of the statutes is amended to read:

11 48.685 (5d) (a) 2. The title of the person or body designated by the Indian tribe  
12 to whom a request for review must be made.

13 **SECTION 184.** 48.685 (5d) (a) 3. of the statutes is amended to read:

14 48.685 (5d) (a) 3. The title of the person or body designated by the Indian tribe  
15 to determine whether a person has been rehabilitated.

16 **SECTION 185.** 48.685 (5d) (a) 3m. of the statutes is amended to read:

17 48.685 (5d) (a) 3m. The title of the person or body, designated by the Indian  
18 tribe, to whom a person may appeal an adverse decision made by the person specified  
19 under subd. 3. and whether the Indian tribe provides any further rights to appeal.

20 **SECTION 186.** 48.685 (5d) (a) 4. of the statutes is amended to read:

21 48.685 (5d) (a) 4. The manner in which the Indian tribe will submit information  
22 relating to a rehabilitation review to the department so that the department may  
23 include that information in its report to the legislature required under sub. (5g).

24 **SECTION 187.** 48.685 (5d) (b) of the statutes is amended to read:

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1           48.685 (5d) (b) If, within 90 days after receiving the plan, the department does  
2 not disapprove the plan, the plan shall be considered approved. If, within 90 days  
3 after receiving the plan, the department disapproves the plan, the department shall  
4 provide notice of that disapproval to the Indian tribe in writing, together with the  
5 reasons for the disapproval. The department may not disapprove a plan unless the  
6 department finds that the plan is not rationally related to the protection of clients.  
7 If the department disapproves the plan, the Indian tribe may, within 30 days after  
8 receiving notice of the disapproval, request that the secretary review the  
9 department's decision. A final decision under this paragraph is not subject to further  
10 review under ch. 227.

11           **SECTION 188.** 48.825 (1) (b) of the statutes is amended to read:

12           48.825 (1) (b) "Another jurisdiction" means a state of the United States other  
13 than Wisconsin, the District of Columbia, the Commonwealth of Puerto Rico, any  
14 territory or insular possession subject to the jurisdiction of the United States or a  
15 ~~federally recognized American~~ an Indian tribe ~~or band~~.

16           **SECTION 189.** 48.83 (1) of the statutes is amended to read:

17           48.83 (1) The Except as provided in s. 48.028 (3) (b), the court of the county  
18 where the proposed adoptive parent or child resides, upon the filing of a petition for  
19 adoption or for the adoptive placement of a child, has jurisdiction over the child until  
20 the petition is withdrawn, denied, or granted. Venue shall be in the county where  
21 the proposed adoptive parent or child resides at the time the petition is filed. The  
22 court may transfer the case to a court in the county in which the proposed adoptive  
23 parents reside.

24           **SECTION 190.** 48.831 (1r) of the statutes is created to read:

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1           48.831 (1r) NOTICE. When a petition is filed under sub. (1m), the court shall  
2 provide notice of the fact-finding hearing under sub. (3) to all interested parties as  
3 provided in s. 48.27 (6). If the court knows or has reason to know that the child is  
4 an Indian child, the court shall provide notice to the Indian child's Indian custodian,  
5 if any, and tribe, if known, in the manner specified in s. 48.028 (4) (a). No hearing  
6 may be held under sub. (3) until at least 10 days after receipt of the notice by the  
7 Indian child's Indian custodian and tribe or until at least 25 days after receipt of the  
8 notice by the U.S. secretary of the interior. On request of the Indian child's Indian  
9 custodian or tribe, the court shall grant a continuance of up to 20 additional days to  
10 enable the requester to prepare for the hearing.

11           **SECTION 191.** 48.831 (2) of the statutes is amended to read:

12           48.831 (2) REPORT. If the department, county department, or child welfare  
13 agency files a petition, ~~it shall submit~~ the court shall order the department, county  
14 department, or child welfare agency to file a report ~~to~~ with the court containing as  
15 much of the information specified under s. 48.425 (1) (a) and (am) as is reasonably  
16 ascertainable and, if applicable, the information specified under s. 48.425 (1) (g). If  
17 the petition is filed by a relative or other person specified under sub. (1m) (d), the  
18 court shall order the department or a child welfare agency, if the department or  
19 agency consents, or a county department to file a report containing the information  
20 specified in this subsection. If the child is an Indian child, the court may order the  
21 department, county department, or child welfare agency, or request the tribal child  
22 welfare department of the Indian child's tribe, if that department consents, to file a  
23 report containing the information specified in this subsection. The department,  
24 county department or, child welfare agency, or tribal child welfare department, if

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1 that department consents, shall file the report at least 5 days before the date of the  
2 fact-finding hearing on the petition.

3 **SECTION 192.** 48.831 (4) (cm) of the statutes is created to read:

4 48.831 (4) (cm) If the child is an Indian child who is in the custody of an Indian  
5 custodian, the court may not remove the child from the custody of the Indian  
6 custodian under par. (c) unless the court finds by clear and convincing evidence,  
7 including the testimony of one or more qualified expert witnesses, that continued  
8 custody of the Indian child by the Indian custodian is likely to result in serious  
9 emotional or physical damage to the child under s. 48.028 (4) (d) 1. and that the  
10 department, county department, or child welfare agency has made active efforts  
11 under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that those  
12 efforts have proved unsuccessful. In placing an Indian child following a transfer of  
13 guardianship and custody under par. (b) or (c), the custodian appointed under par.  
14 (b) or (c) shall comply with the order of placement preference under s. 48.028 (7) (b)  
15 or, if applicable, s. 48.028 (7) (c), unless there is good cause, as described in s. 48.028  
16 (7) (e), for departing from that order.

17 **SECTION 193.** 48.833 of the statutes, as affected by 2005 Wisconsin Act 293, is  
18 amended to read:

19 **48.833 Placement of children for adoption by the department, county**  
20 **departments, and child welfare agencies.** The department, a county  
21 department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under  
22 s. 48.60 may place a child for adoption in a licensed foster home or a licensed  
23 treatment foster home without a court order if the department, county department,  
24 or child welfare agency is the guardian of the child or makes the placement at the  
25 request of another agency that is the guardian of the child and if the proposed

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1 adoptive parents have completed the preadoption preparation required under s.  
2 48.84 (1) or the department, county department, or child welfare agency determines  
3 that the proposed adoptive parents are not required to complete that preparation.  
4 In placing an Indian child for adoption under this section, the department, county  
5 department, or child welfare agency shall comply with the order of placement  
6 preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless the  
7 department, county department, or child welfare agency finds good cause, as  
8 described in s. 48.028 (7) (e), for departing from that order. When a child is placed  
9 under this section in a licensed foster home or a licensed treatment foster home for  
10 adoption, the department, county department, or child welfare agency making the  
11 placement shall enter into a written agreement with the proposed adoptive parent,  
12 which shall state the date on which the child is placed in the licensed foster home or  
13 licensed treatment foster home for adoption by the proposed adoptive parent.

14 **SECTION 194.** 48.837 (2) (e) of the statutes is created to read:

15 48.837 (2) (e) If the child is an Indian child, the names and addresses of the  
16 Indian child's Indian custodian, if any, and tribe, if known.

17 **SECTION 195.** 48.837 (4) (c) of the statutes is amended to read:

18 48.837 (4) (c) Shall, when the petition has been filed under sub. (1), order the  
19 department or a county department under s. 48.57 (1) (e) or (hm) to investigate the  
20 proposed adoptive placement, to interview each petitioner, to provide counseling if  
21 requested, and to report its recommendation to the court at least 5 days before the  
22 hearing on the petition. If a licensed child welfare agency or, in the case of an Indian  
23 child, the tribal child welfare department of the Indian child's tribe has investigated  
24 the proposed adoptive placement and interviewed the petitioners, the court may  
25 accept a report and recommendation from the child welfare agency or tribal child

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1 welfare department in place of the court-ordered report required under this  
2 paragraph. In reporting its recommendations under this paragraph with respect to  
3 an Indian child, the department, a county department, or a child welfare agency shall  
4 comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable,  
5 s. 48.028 (7) (c), unless the department, county department, or child welfare agency  
6 finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

7 **SECTION 196.** 48.837 (4) (d) of the statutes is amended to read:

8 48.837 (4) (d) May, at the request of a petitioning parent, or on its own motion  
9 after ordering the child taken into custody under s. 48.19 (1) (c), order the  
10 department or a county department under s. 48.57 (1) (e) or (hm) to place the child,  
11 pending the hearing on the petition, in any home licensed under s. 48.62 except the  
12 home of the proposed adoptive parents or a relative of the proposed adoptive parents.  
13 In placing an Indian child under this paragraph, the department or county  
14 department shall comply with the order of placement preference under s. 48.028 (7)  
15 (b) or, if applicable, s. 48.028 (7) (c), unless the department or county department  
16 finds good cause, as described in s. 48.028 (7) (e), for departing from that order.

17 **SECTION 197.** 48.837 (6) (c) of the statutes is amended to read:

18 48.837 (6) (c) After the hearing on the petition under sub. (2), the court shall  
19 make findings on the allegations of the petition and the report ordered under sub.  
20 (4) (c) and make a conclusion as to whether placement in the home is in the best  
21 interest of the child. In determining whether placement of an Indian child in the  
22 home is in the best interest of the Indian child, the court shall comply with the order  
23 of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c), unless  
24 the court finds good cause, as described in s. 48.028 (7) (e), for departing from that  
25 order.

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1           **SECTION 198.** 48.85 (1) of the statutes is amended to read:

2           48.85 (1) At least 10 days prior to the hearing, the guardian shall file its  
3 recommendation with the court. In making a recommendation under this subsection  
4 with respect to an Indian child, the guardian shall comply with the order of  
5 placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c).

6           **SECTION 199.** 48.88 (2) (a) (intro.) of the statutes is amended to read:

7           48.88 (2) (a) (intro.) Except as provided under ~~par. pars. (am) and (c)~~, when a  
8 petition to adopt a child is filed, the court shall order an investigation to determine  
9 whether the child is a proper subject for adoption and whether the petitioner's home  
10 is suitable for the child. The court shall order one of the following to conduct the  
11 investigation:

12           **SECTION 200.** 48.88 (2) (ag) of the statutes is created to read:

13           48.88 (2) (ag) If the child is an Indian child, in lieu of ordering an investigation  
14 under par. (a), the court may request the tribal child welfare department of the  
15 Indian child's tribe, if that department consents, to conduct the investigation.

16           **SECTION 201.** 48.88 (2) (b) of the statutes is amended to read:

17           48.88 (2) (b) The agency or tribal child welfare department making the  
18 investigation shall file its report with the court at least 10 days before the hearing  
19 unless the time is reduced for good cause shown by the petitioner. In reporting on  
20 an investigation of the proposed adoptive home of an Indian child, the agency shall  
21 comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable,  
22 s. 48.028 (7) (c), unless the agency finds good cause, as described in s. 48.028 (7) (e),  
23 for departing from that order. The report shall be part of the record of the  
24 proceedings.

25           **SECTION 202.** 48.89 (1) of the statutes is amended to read:

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1           48.89 (1) The recommendation of the department is required for the adoption  
2 of a child if the child is not under the guardianship of a county department under s.  
3 48.57 (1) (e) or (hm) or a child welfare agency under s. 48.61 (5). In making a  
4 recommendation under this subsection with respect to an Indian child, the  
5 department shall comply with the order of placement preference under s. 48.028 (7)  
6 (a) or, if applicable, s. 48.028 (7) (c), unless the department finds good cause, as  
7 described in s. 48.028 (7) (e), for departing from that order.

8           **SECTION 203.** 48.91 (3) of the statutes is amended to read:

9           48.91 (3) If after the hearing and a study of the report required by s. 48.88 and  
10 the recommendation required by s. 48.841 or 48.89, the court is satisfied that the  
11 necessary consents or recommendations have been filed and that the adoption is in  
12 the best interests of the child, the court shall make an order granting the adoption.  
13 In determining whether the adoption is in the best interests of an Indian child, the  
14 court shall comply with the order of placement preference under s. 48.028 (7) (a) or,  
15 if applicable, s. 48.028 (7) (c), unless the court finds good cause, as described in s.  
16 48.028 (7) (e), for departing from that order. The order may change the name of the  
17 minor to that requested by petitioners.

18           **SECTION 204.** 48.93 (1d) of the statutes, as affected by 2007 Wisconsin Act 20,  
19 is amended to read:

20           48.93 (1d) All records and papers pertaining to an adoption proceeding shall  
21 be kept in a separate locked file and may not be disclosed except under sub. (1g) or,  
22 (1r), or (1v), s. 48.432, 48.433, 48.434, 48.48 (17) (a) 9. or 48.57 (1) (j), or by order of  
23 the court for good cause shown.

24           **SECTION 205.** 48.93 (1v) of the statutes is created to read:

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1           48.93 (1v) (a) At the time a court enters an order granting adoption of an Indian  
2 child, the court shall provide the U.S. secretary of the interior with the information  
3 specified in s. 48.028 (9) (a) and (b).

4           (b) At the request of an Indian adoptee who is 18 years of age or older, the court  
5 that entered the order granting adoption of the adoptee shall provide or arrange to  
6 provide the adoptee with the information specified in s. 48.028 (9) (c).

7           **SECTION 206.** 48.977 (4) (a) 1. of the statutes is amended to read:

8           48.977 (4) (a) 1. The child or the child's guardian ~~or~~, legal custodian, or Indian  
9 custodian.

10          **SECTION 207.** 48.977 (4) (b) 6. of the statutes is amended to read:

11          48.977 (4) (b) 6. A statement of whether the child may be subject to the federal  
12 ~~Indian child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963, and, if the child may  
13 be subject to that act, the names and addresses of the child's Indian custodian, if any,  
14 and Indian tribe, if known.

15          **SECTION 208.** 48.977 (4) (c) 1. j. of the statutes is created to read:

16          48.977 (4) (c) 1. j. If the child is an Indian child, the Indian child's Indian  
17 custodian, if any, and tribe, if known.

18          **SECTION 209.** 48.977 (4) (c) 2. of the statutes is amended to read:

19          48.977 (4) (c) 2. ~~Service~~ Except as provided in subd. 2m., service shall be made  
20 by 1st class mail at least 7 days before the hearing or by personal service at least 7  
21 days before the hearing or, if with reasonable diligence a party specified in subd. 1.  
22 cannot be served by mail or personal service, service shall be made by publication of  
23 a notice published as a class 1 notice under ch. 985. In determining which newspaper  
24 is likely to give notice as required under s. 985.02 (1), the petitioner shall consider

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1 the residence of the party, if known, or the residence of the relatives of the party, if  
2 known, or the last-known location of the party.

3 **SECTION 210.** 48.977 (4) (c) 2m. of the statutes is created to read:

4 48.977 (4) (c) 2m. If the petitioner knows or has reason to know that the child  
5 is an Indian child, service under subd. 2. to the Indian child's parent, Indian  
6 custodian, and tribe shall be provided in the manner specified in s. 48.028 (4) (a). No  
7 hearing may be held under par. (cm) until at least 10 days after receipt of service by  
8 the Indian child's parent, Indian custodian, and tribe or until at least 25 days after  
9 receipt of service by the U.S. secretary of the interior. On request of the Indian child's  
10 parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20  
11 additional days to enable the requester to prepare for the hearing.

12 **SECTION 211.** 48.977 (4) (g) 4. of the statutes is created to read:

13 48.977 (4) (g) 4. If the child is an Indian child, the order of placement preference  
14 under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good  
15 cause, as described in s. 48.028 (7) (e), for departing from that order.

16 **SECTION 212.** 48.978 (2) (b) 11. of the statutes is amended to read:

17 48.978 (2) (b) 11. A statement of whether the child may be subject to the federal  
18 Indian Child Welfare Act, 25 USC 1911 to 1963, and, if the child may be subject to  
19 that act, the names and addresses of the child's Indian custodian, if any, and Indian  
20 tribe, if known.

21 **SECTION 213.** 48.981 (1) (cs) of the statutes is renumbered 48.02 (8g) and  
22 amended to read:

23 48.02 (8g) "Indian child" means any unmarried person who is under the age  
24 of 18 years and is affiliated with an Indian tribe or band in any of the following ways:

25 1. As a member of the Indian tribe or band.

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1           2. As a person who is both eligible for membership in the Indian tribe ~~or band~~  
2 and is the biological child of a member of the Indian tribe ~~or band~~.

3           **SECTION 214.** 48.981 (1) (ct) of the statutes is amended to read:

4           48.981 **(1)** (ct) “Indian unborn child” means an unborn child who, when born,  
5 may be eligible for affiliation with an Indian tribe ~~or band~~ in any of the following  
6 ways:

7           1. As a member of the Indian tribe ~~or band~~.

8           2. As a person who is both eligible for membership in the Indian tribe ~~or band~~  
9 and the biological child of a member of the Indian tribe ~~or band~~.

10          **SECTION 215.** 48.981 (1) (i) of the statutes is amended to read:

11          48.981 **(1)** (i) “Tribal agent” means the person designated under 25 CFR 23.12  
12 by an Indian tribe ~~or band~~ to receive notice of involuntary child custody proceedings  
13 under the ~~Indian child welfare act~~ federal Indian Child Welfare Act, 25 USC 1901  
14 to 1963.

15          **SECTION 216.** 48.981 (3) (bm) (intro.) of the statutes is amended to read:

16          48.981 **(3)** (bm) *Notice of report to Indian tribal agent ~~tribe~~*. (intro.) In a county  
17 which that has wholly or partially within its boundaries a ~~federally recognized~~  
18 ~~Indian~~ reservation or a bureau of Indian affairs service area for the Ho-Chunk tribe,  
19 if a county department which that receives a report under par. (a) pertaining to a  
20 child or unborn child knows or has reason to know that the child is an Indian child  
21 who resides in the county or that the unborn child is an Indian unborn child whose  
22 expectant mother resides in the county, the county department shall provide notice,  
23 which shall consist only of the name and address of the Indian child or expectant  
24 mother and the fact that a report has been received about that Indian child or Indian  
25 unborn child, within 24 hours to one of the following:

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1           **SECTION 217.** 48.981 (3) (bm) 1. of the statutes is amended to read:

2           48.981 (3) (bm) 1. If the county department knows with which Indian tribe or  
3           band the child is affiliated, or with which Indian tribe or band the Indian unborn  
4           child, when born, may be eligible for affiliation, and ~~it~~ the Indian tribe is a Wisconsin  
5           ~~tribe or band, the tribal agent of that tribe or band~~ Indian tribe, the director of the  
6           tribal child welfare department.

7           **SECTION 218.** 48.981 (3) (bm) 2. of the statutes is amended to read:

8           48.981 (3) (bm) 2. If the county department ~~does not know~~ knows with which  
9           Indian tribe or band the child is affiliated, or with which Indian tribe or band the  
10          Indian unborn child, when born, may be eligible for affiliation, ~~or the child or~~  
11          ~~expectant mother is not affiliated with~~ and the Indian tribe is not a Wisconsin Indian  
12          tribe or band, the tribal agent serving the reservation or Ho-Chunk service area  
13          where the child or expectant mother resides of that Indian tribe.

14          **SECTION 219.** 48.981 (3) (bm) 3. of the statutes is amended to read:

15          48.981 (3) (bm) 3. If neither subd. 1. nor 2. applies, any tribal agent serving a  
16          reservation or Ho-Chunk service area in the county department does not know with  
17          which Indian tribe the Indian child is affiliated, or with which Indian tribe the Indian  
18          unborn child, when born, may be eligible for affiliation, the secretary of the U.S.  
19          department of the interior.

20          **SECTION 220.** 48.981 (7) (a) 2. of the statutes is amended to read:

21          48.981 (7) (a) 2. Appropriate staff of an agency or a tribal social services child  
22          welfare department.

23          **SECTION 221.** 48.981 (7) (a) 10m. of the statutes is amended to read:

24          48.981 (7) (a) 10m. A tribal court, or other adjudicative body authorized by a  
25          tribe or band an Indian tribe to perform child welfare functions, that exercises

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1 jurisdiction over children and unborn children alleged to be in need of protection or  
2 services for use in proceedings in which abuse or neglect of the child who is the  
3 subject of the report or record or abuse of the unborn child who is the subject of the  
4 report or record is an issue.

5 **SECTION 222.** 48.981 (7) (a) 10r. of the statutes is amended to read:

6 48.981 (7) (a) 10r. A tribal court, or other adjudicative body authorized by a  
7 ~~tribe or band~~ an Indian tribe to perform child welfare functions, that exercises  
8 jurisdiction over children alleged to be in need of protection or services for use in  
9 proceedings in which an issue is the substantial risk of abuse or neglect of a child  
10 who, during the time period covered by the report or record, was in the home of the  
11 child who is the subject of the report or record.

12 **SECTION 223.** 48.981 (7) (a) 11m. of the statutes is amended to read:

13 48.981 (7) (a) 11m. An attorney representing the interests of an Indian tribe  
14 ~~or band~~ in proceedings under subd. 10m. or 10r., of an Indian child in proceedings  
15 under subd. 10m. or 10r. or of an Indian unborn child in proceedings under subd.  
16 10m.

17 **SECTION 224.** 48.981 (7) (am) of the statutes is amended to read:

18 48.981 (7) (am) Notwithstanding par. (a) (intro.), a tribal agent who receives  
19 notice under sub. (3) (bm) may disclose the notice to a tribal ~~social services~~ child  
20 welfare department.

21 **SECTION 225.** 48.981 (8) (a) of the statutes, as affected by 2007 Wisconsin Act  
22 20, is amended to read:

23 48.981 (8) (a) The department, the county departments, and a licensed child  
24 welfare agency under contract with the department in a county having a population  
25 of 500,000 or more to the extent feasible shall conduct continuing education and

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1 training programs for staff of the department, the county departments, licensed  
2 child welfare agencies under contract with the department or a county department,  
3 law enforcement agencies, and the tribal ~~social services~~ child welfare departments,  
4 persons and officials required to report, the general public, and others as  
5 appropriate. The programs shall be designed to encourage reporting of child abuse  
6 and neglect and of unborn child abuse, to encourage self-reporting and voluntary  
7 acceptance of services and to improve communication, cooperation, and coordination  
8 in the identification, prevention, and treatment of child abuse and neglect and of  
9 unborn child abuse. Programs provided for staff of the department, county  
10 departments, and licensed child welfare agencies under contract with county  
11 departments or the department whose responsibilities include the investigation or  
12 treatment of child abuse or neglect shall also be designed to provide information on  
13 means of recognizing and appropriately responding to domestic abuse, as defined in  
14 s. 49.165 (1) (a). The department, the county departments, and a licensed child  
15 welfare agency under contract with the department in a county having a population  
16 of 500,000 or more shall develop public information programs about child abuse and  
17 neglect and about unborn child abuse.

18 **SECTION 226.** 48.983 (1) (b) 1. b. of the statutes, as affected by 2007 Wisconsin  
19 Act 20, is amended to read:

20 48.983 (1) (b) 1. b. An Indian child who has been the subject of a report under  
21 s. 48.981 about which an Indian tribe that has received a grant under this section has  
22 received notice, including but not limited to notice provided to a tribal agent under  
23 s. 48.981 (3) (bm), and with respect to whom an individual designated by the Indian  
24 tribe has determined that all of the conditions in subd. 2. exist.

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1           **SECTION 227.** 48.983 (1) (d) of the statutes, as affected by 2007 Wisconsin Act  
2 20, is repealed.

3           **SECTION 228.** 48.983 (1) (e) of the statutes, as affected by 2007 Wisconsin Act  
4 20, is repealed.

5           **SECTION 229.** 48.983 (1) (h) of the statutes, as affected by 2007 Wisconsin Act  
6 20, is repealed.

7           **SECTION 230.** 806.245 (1m) of the statutes is created to read:

8           **806.245 (1m)** The public acts, records, and judicial proceedings of any Indian  
9 tribe that are applicable to an Indian child custody proceeding, as defined in s. 48.028  
10 (2) (d), or an Indian juvenile child custody proceeding, as defined in s. 938.028 (2) (b),  
11 shall be given full faith and credit by the state as provided in s. 48.028 (3) (f) or  
12 938.028 (3) (f).

13           **SECTION 231.** 822.015 of the statutes is amended to read:

14           **822.015 Custody of Indian children.** The ~~Indian child welfare act~~ federal  
15 Indian Child Welfare Act, 25 USC 1911 to 1963, supersedes the provisions of this  
16 chapter in any child custody proceeding governed by that act, except that in any case  
17 in which this chapter provides a higher standard of protection for the rights of an  
18 Indian child's parent or Indian custodian than the rights provided under that act, the  
19 court shall apply the standard under this chapter.

20           **SECTION 232.** 938.02 (8d) of the statutes is created to read:

21           **938.02 (8d)** "Indian" means any person who is a member of an Indian tribe or  
22 who is an Alaska native and a member of a regional corporation, as defined in 43 USC  
23 1606.

24           **SECTION 233.** 938.02 (8g) of the statutes is created to read:

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1           938.02 **(8g)** “Indian juvenile” means an unmarried person who is under 18  
2 years of age and who is affiliated with an Indian tribe in any of the following ways:

3           (a) As a member of the Indian tribe.

4           (b) As a person who is eligible for membership in the Indian tribe and is the  
5 biological child of a member of the Indian tribe.

6           **SECTION 234.** 938.02 (8m) of the statutes is created to read:

7           938.02 **(8m)** “Indian juvenile’s tribe” means one of the following:

8           (a) The Indian tribe in which an Indian juvenile is a member or eligible for  
9 membership.

10          (b) In the case of an Indian juvenile who is a member of or eligible for  
11 membership in more than one tribe, the Indian tribe with which the Indian juvenile  
12 has the more significant contacts.

13          **SECTION 235.** 938.02 (8p) of the statutes is created to read:

14          938.02 **(8p)** “Indian custodian” means an Indian person who has legal custody  
15 of an Indian juvenile under tribal law or custom or under state law or to whom  
16 temporary physical care, custody, and control has been transferred by the parent of  
17 the juvenile.

18          **SECTION 236.** 938.02 (8r) of the statutes is created to read:

19          938.02 **(8r)** “Indian tribe” means any Indian tribe, band, nation, or other  
20 organized group or community of Indians that is recognized as eligible for the  
21 services provided to Indians by the U.S. secretary of the interior because of Indian  
22 status, including any Alaska native village, as defined in 43 USC 1602 (c).

23          **SECTION 237.** 938.02 (9m) of the statutes is renumbered 938.02 (8b).

24          **SECTION 238.** 938.02 (10m) of the statutes is amended to read:

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1           938.02 **(10m)** “Juvenile”, when used without further qualification, means a  
2 person who is less than 18 years of age, except that for purposes of investigating or  
3 prosecuting a person who is alleged to have violated a state or federal criminal law  
4 or any civil law or municipal ordinance, “juvenile” does not include a person who has  
5 attained 17 years of age.

6           **SECTION 239.** 938.02 (12m) of the statutes is amended to read:

7           938.02 **(12m)** “Off-reservation trust land” means land in this state that is held  
8 in trust by the federal government for the benefit of ~~a~~ an Indian tribe or ~~an American~~  
9 Indian individual and that is located outside the boundaries of ~~a~~ an Indian tribe’s  
10 reservation.

11           **SECTION 240.** 938.02 (13) of the statutes is amended to read:

12           938.02 **(13)** “Parent” means either a biological parent, a husband who has  
13 consented to the artificial insemination of his wife under s. 891.40, or a parent by  
14 adoption. If the juvenile is a nonmarital child who is not adopted or whose parents  
15 do not subsequently intermarry under s. 767.803, “parent” includes a person  
16 acknowledged under s. 767.805 or a substantially similar law of another state or  
17 adjudicated to be the biological father. “Parent” does not include any person whose  
18 parental rights have been terminated. For purposes of the application of s. 938.028  
19 and the federal Indian Child Welfare Act, 26 USC 1901 to 1963, “parent” includes an  
20 Indian person who has lawfully adopted an Indian juvenile, including an adoption  
21 under tribal law or custom, but does not include a parent by adoption who is not an  
22 Indian person.

23           **SECTION 241.** 938.02 (15) of the statutes is amended to read:

24           938.02 **(15)** “Relative” means a parent, stepparent, brother, sister, stepbrother,  
25 stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd

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1 cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding  
2 generation as denoted by the prefix of grand, great, or great–great, whether by blood,  
3 marriage, or legal adoption, or the spouse of any person named in this subsection,  
4 even if the marriage is terminated by death or divorce. “Relative” also includes, in  
5 the case of an Indian juvenile, an extended family member, as defined in s. 938.028  
6 (2) (a), whether by blood, marriage, or adoption, including adoption under tribal law  
7 or custom.

8 **SECTION 242.** 938.02 (15c) of the statutes is repealed and recreated to read:

9 938.02 (15c) “Reservation” means Indian country, as defined in 18 USC 1151,  
10 or any land not covered under that section to which the title is either held by the  
11 United States in trust for the benefit of an Indian tribe or individual or held by an  
12 Indian tribe or individual, subject to a restriction by the United States against  
13 alienation.

14 **SECTION 243.** 938.02 (18g) of the statutes is repealed.

15 **SECTION 244.** 938.02 (18j) of the statutes is created to read:

16 938.02 (18j) “Tribal court” means a court that has jurisdiction over juvenile  
17 custody proceedings, and that is either a court of Indian offenses or a court  
18 established and operated under the code or custom of an Indian tribe, or any other  
19 administrative body of an Indian tribe that is vested with authority over Indian  
20 juvenile custody proceedings.

21 **SECTION 245.** 938.028 of the statutes is repealed and recreated to read:

22 **938.028 Indian juvenile welfare. (1) DECLARATION OF POLICY.** In Indian  
23 juvenile custody proceedings, the best interests of the Indian juvenile shall be  
24 determined consistent with the federal Indian Child Welfare Act, 25 USC 1901 to  
25 1963. It is the policy of this state to do all of the following:

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1 (a) Cooperate fully with Indian tribes in order to ensure that the federal Indian  
2 Child Welfare Act is enforced in this state.

3 (b) Protect the best interests of Indian juveniles and promote the stability and  
4 security of Indian tribes and families by doing all of the following:

5 1. Establishing minimum standards for the removal of Indian juveniles from  
6 their families and the placement of those juveniles in out-of-home care placements  
7 that will reflect the unique value of Indian culture.

8 2. Using practices, in accordance with the federal Indian Child Welfare Act, 25  
9 USC 1901 to 1963, this section, and other applicable law, that are designed to prevent  
10 the voluntary or involuntary out-of-home care placement of Indian juveniles and,  
11 when an out-of-home care placement is necessary, placing an Indian juvenile in a  
12 placement that reflects the unique values of the Indian juvenile's tribal culture and  
13 that is best able to assist the Indian juvenile in establishing, developing, and  
14 maintaining a political, cultural, and social relationship with the Indian juvenile's  
15 tribe and tribal community.

16 (2) DEFINITIONS. In this section:

17 (a) "Extended family member" means a person who is defined as a member of  
18 an Indian juvenile's extended family by the law or custom of the Indian juvenile's  
19 tribe or, in the absence of such a law or custom, a person who has attained the age  
20 of 18 years and who is the Indian juvenile's grandparent, aunt, uncle, brother, sister,  
21 brother-in-law, sister-in-law, niece, nephew, first cousin, 2nd cousin, or stepparent.

22 (b) "Indian juvenile custody proceeding" means a proceeding under s. 938.13  
23 (4), (6), (6m), or (7) that is governed by the federal Indian Child Welfare Act, 25 USC  
24 1901 to 1963, in which an out-of-home care placement may occur.

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1           (c) “Out-of-home care placement” means the removal of an Indian juvenile  
2 from his or her parent or Indian custodian for temporary placement in a foster home,  
3 treatment foster home, group home, residential care center for children and youth,  
4 or shelter care facility, in the home of a relative other than a parent, or in the home  
5 of a guardian, from which placement the parent or Indian custodian cannot have the  
6 juvenile returned upon demand.

7           (d) “Qualified expert witness” means a person who is any of the following:

8           1. A member of the Indian juvenile’s tribe recognized by the Indian juvenile’s  
9 tribal community as knowledgeable regarding the tribe’s customs relating to family  
10 organization or child-rearing practices.

11           2. A member of another tribe who is knowledgeable regarding the customs of  
12 the Indian juvenile’s tribe relating to family organization or child-rearing practices.

13           3. A professional person having substantial education and experience in the  
14 person’s professional speciality and having extensive knowledge of the customs,  
15 traditions, and values of the Indian juvenile’s tribe relating to family organization  
16 and child-rearing practices.

17           4. A layperson having substantial experience in the delivery of juvenile and  
18 family services to Indians and substantial knowledge of the prevailing social and  
19 cultural standards and child-rearing practices of the Indian juvenile’s tribe.

20           **(3) JURISDICTION OVER INDIAN JUVENILE CUSTODY PROCEEDINGS.** (a) *Applicability.*  
21 This section and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, apply  
22 to any Indian juvenile custody proceeding regardless of whether the Indian juvenile  
23 is in the legal custody or physical custody of an Indian parent, Indian custodian,  
24 extended family member, or other person at the commencement of the proceeding  
25 and whether the Indian juvenile resides or is domiciled on or off of a reservation. A

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1 court assigned to exercise jurisdiction under this chapter may not determine  
2 whether this section and the federal Indian Child Welfare Act, 25 USC 1901 to 1963,  
3 apply to an Indian juvenile custody proceeding based on whether the Indian juvenile  
4 is part of an existing Indian family.

5 (b) *Exclusive tribal jurisdiction.* 1. An Indian tribe shall have exclusive  
6 jurisdiction over any Indian juvenile custody proceeding involving an Indian  
7 juvenile who resides or is domiciled within the reservation of the tribe, except when  
8 that jurisdiction is otherwise vested in the state by federal law and except as  
9 provided in subd. 2. If an Indian juvenile is a ward of a tribal court, the Indian tribe  
10 shall retain exclusive jurisdiction regardless of the residence or domicile of the  
11 juvenile.

12 2. Subdivision 1. does not prevent an Indian juvenile who resides or is domiciled  
13 within a reservation, but who is temporarily located off the reservation, from being  
14 taken into and held in custody under ss. 938.19 to 938.21 in order to prevent  
15 imminent physical harm or damage to the Indian juvenile. The person taking the  
16 Indian juvenile into custody or the intake worker shall immediately release the  
17 Indian juvenile from custody upon determining that holding the Indian juvenile in  
18 custody is no longer necessary to prevent imminent physical damage or harm to the  
19 Indian juvenile and shall expeditiously restore the Indian juvenile to his or her  
20 parent or Indian custodian, release the Indian juvenile to an appropriate official of  
21 the Indian juvenile's tribe, or initiate an Indian juvenile custody proceeding, as may  
22 be appropriate.

23 (c) *Transfer of proceedings to tribe.* In any Indian juvenile custody proceeding  
24 under this chapter involving an out-of-home placement of an Indian juvenile who  
25 is not residing or domiciled within the reservation of the Indian juvenile's tribe, the

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1 court assigned to exercise jurisdiction under this chapter shall, upon the petition of  
2 the Indian juvenile's parent, Indian custodian, or tribe, transfer the proceeding to the  
3 jurisdiction of the tribe unless any of the following applies:

4 1. A parent of the Indian juvenile objects to the transfer.

5 2. The Indian juvenile's tribe does not have a tribal court or tribal court of the  
6 Indian juvenile's tribe declines jurisdiction.

7 3. The court determines that good cause exists to deny the transfer. The court  
8 may determine that good cause exists to deny the transfer only if the person opposing  
9 the transfer shows to the satisfaction of the court any of the following:

10 a. That the Indian juvenile is 12 years of age or over and objects to the transfer.

11 b. That the evidence or testimony necessary to decide the case cannot be  
12 presented in tribal court without undue hardship to the parties or the witnesses and  
13 that the tribal court is unable to mitigate the hardship by making arrangements to  
14 receive the evidence or testimony by use of telephone or live audiovisual means, by  
15 hearing the evidence or testimony at a location that is convenient to the parties and  
16 witnesses, or by use of other means permissible under the tribal court's rules of  
17 evidence.

18 (d) *Declination of jurisdiction.* If the court assigned to exercise jurisdiction  
19 under this chapter determines that the petitioner in an Indian juvenile custody  
20 proceeding has improperly removed the Indian juvenile from the custody of his or her  
21 parent or Indian custodian or has improperly retained custody of the Indian juvenile  
22 after a visit or other temporary relinquishment of custody, the court shall decline  
23 jurisdiction over the petition and immediately return the Indian juvenile to the  
24 custody of the parent or Indian custodian, unless the court determines that returning

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1 the Indian juvenile to his or her parent or Indian custodian would subject the Indian  
2 juvenile to substantial and immediate danger or the threat of that danger.

3 (e) *Intervention.* An Indian juvenile's Indian custodian or tribe may intervene  
4 at any point in an Indian juvenile custody proceeding under this chapter.

5 (f) *Full faith and credit.* The state shall give full faith and credit to the public  
6 acts, records, and judicial proceedings of any Indian tribe that are applicable to an  
7 Indian juvenile custody proceeding to the same extent that the state gives full faith  
8 and credit to the public acts, records, and judicial proceedings of any other  
9 governmental entity.

10 (4) COURT PROCEEDINGS. (a) *Notice.* In any involuntary proceeding under s.  
11 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of a juvenile  
12 whom the court knows or has reason to know is an Indian juvenile, the court or party  
13 seeking the out-of-home care placement shall, for the first hearing at the plea,  
14 fact-finding, and dispositional stages of the proceeding, notify the Indian juvenile's  
15 parent, Indian custodian, and tribe, by certified mail of the pending proceeding and  
16 of their right to intervene in the proceeding. Notice of subsequent hearings in a stage  
17 of a proceeding shall be in writing and may be given by mail, personal delivery, or  
18 facsimile transmission, but not by electronic mail. If the identity or location of the  
19 Indian juvenile's parent, Indian custodian, or tribe cannot be determined, that notice  
20 shall be given to the U.S. secretary of the interior in like manner. The next hearing  
21 in the proceeding may not be held until at least 10 days after receipt of the notice by  
22 the parent, Indian custodian, and tribe or until at least 25 days after receipt of the  
23 notice by the U.S. secretary of the interior. On request of the parent, Indian  
24 custodian, or tribe, the court shall grant a continuance of up to 20 additional days  
25 to enable the requester to prepare for that hearing.

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1           (b) *Appointment of counsel.* Whenever an Indian juvenile is the subject of a  
2 proceeding under s. 938.13 (4), (6), (6m), or (7) involving the removal of the Indian  
3 juvenile from his or her home or the placement of the Indian juvenile in an  
4 out-of-home care placement, the Indian juvenile's parent or Indian custodian shall  
5 have the right to be represented by court-appointed counsel as provided in s. 938.23  
6 (2g). The court may also, in its discretion, appoint counsel for the Indian juvenile  
7 under s. 938.23 (1m) or (3) if the court finds that the appointment is in the best  
8 interests of the Indian juvenile.

9           (c) *Examination of reports and other documents.* Each party to a proceeding  
10 under s. 938.13 (4), (6), (6m), or (7) involving the out-of-home care placement of an  
11 Indian juvenile shall have the right to examine all reports or other documents filed  
12 with the court upon which any decision with respect to the out-of-home care  
13 placement may be based.

14           (d) *Out-of-home care placement; serious damage and active efforts.* The court  
15 may not order an Indian juvenile who is in need of protection or services under s.  
16 938.13 (4), (6), (6m), or (7) to be removed from the Indian juvenile's home and placed  
17 in an out-of-home care placement unless all of the following occur:

18           1. The court finds by clear and convincing evidence, including the testimony  
19 of one or more qualified expert witnesses chosen in the order of preference listed in  
20 par. (e), that continued custody of the Indian juvenile by the parent or Indian  
21 custodian is likely to result in serious emotional or physical damage to the juvenile.

22           2. The court finds by clear and convincing evidence that active efforts, as  
23 described in par. (f), have been made to provide remedial services and rehabilitation  
24 programs designed to prevent the breakup of the Indian family and that those efforts

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1 have proved unsuccessful. The court shall make that finding notwithstanding that  
2 a circumstance specified in s. 938.355 (2d) (b) 1. to 4. applies.

3 (e) *Qualified expert witness; order of preference.* A qualified expert witness  
4 shall be chosen in the following order of preference:

5 1. A member of the Indian juvenile's tribe described in sub. (2) (d) 1.

6 2. A member of another tribe described in sub. (2) (d) 2.

7 3. A professional person described in sub. (2) (d) 3.

8 4. A layperson described described in sub. (2) (d) 4.

9 (f) *Active efforts standard.* The court may not order an Indian juvenile to be  
10 placed in an out-of-home care placement unless the evidence of active efforts under  
11 par. (d) 2. shows that there has been a vigorous and concerted level of case work  
12 beyond the level that typically constitutes reasonable efforts, as described in s.  
13 938.355 (2c). The active efforts shall be made in a manner that takes into account  
14 the prevailing social and cultural values, conditions, and way of life of the Indian  
15 juvenile's tribe and that utilizes the available resources of the Indian juvenile's tribe,  
16 tribal and other Indian child welfare agencies, extended family members of the  
17 Indian juvenile, and other individual Indian caregivers. The court's consideration  
18 of whether active efforts were made under par. (d) 2. shall include whether all of the  
19 following activities were conducted:

20 1. The Indian juvenile's tribe was requested to convene traditional and  
21 customary support, actions, and services to resolve the Indian family's issues.

22 2. Representatives of the Indian juvenile's tribe were identified, notified, and  
23 invited to participate in all aspects of the Indian juvenile custody proceeding at the  
24 earliest possible point in the proceeding.

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1           3. Extended family members of the Indian juvenile were consulted to identify  
2 and provide family structure and support for the Indian juvenile.

3           4. Frequent visitation was made to the Indian juvenile's home.

4           5. Contact was made with extended family members of the Indian juvenile to  
5 assure appropriate cultural connections.

6           6. All family preservation alternatives appropriate to the Indian juvenile's  
7 tribe were exhausted.

8           7. Community resources offering housing, financial, and transportation  
9 assistance were identified, information about those resources was provided to the  
10 Indian family, and the Indian family was actively assisted in accessing those  
11 resources.

12           **(5) INVALIDATION OF ACTION.** Any Indian juvenile in need of protection or services  
13 under s. 938.13 (4), (6), (6m), or (7) who is the subject of an out-of-home care  
14 placement, any parent or Indian custodian from whose custody that Indian juvenile  
15 was removed, or the Indian juvenile's tribe may move the court to invalidate that  
16 out-of-home care placement on the grounds that the out-of-home care placement  
17 was made in violation of sub. (3) or (4) or 25 USC 1911 or 1912. If the court finds that  
18 those grounds exist, the court shall invalidate the out-of-home care placement.

19           **(6) PLACEMENT OF INDIAN JUVENILE.** (a) *Out-of-home care placement;*  
20 *preferences.* Any Indian juvenile in need of protection or services under s. 938.13 (4),  
21 (6), (6m), or (7) who is placed in an out-of-home care placement shall be placed in  
22 the least restrictive setting that most approximates a family, that meets the Indian  
23 juvenile's special needs, if any, and that is within reasonable proximity to the Indian  
24 juvenile's home, taking into account those special needs. Subject to pars. (b) to (d),  
25 in placing such an Indian juvenile in an out-of-home care placement, preference

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1 shall be given, in the absence of good cause, as described in par. (d), to the contrary,  
2 to a placement in one of the following, in the order of preference listed:

3 1. The home of an extended family member of the Indian juvenile.

4 2. A foster home or treatment foster home licensed, approved, or specified by  
5 the Indian juvenile's tribe.

6 3. An Indian foster home or treatment foster home licensed or approved by the  
7 department, a county department, or a child welfare agency.

8 4. A group home or residential care center for children and youth approved by  
9 an Indian tribe or operated by an Indian organization that has a program suitable  
10 to meet the needs of the Indian juvenile.

11 (b) *Tribal or personal preferences.* If the Indian juvenile's tribe has established,  
12 by resolution, an order of preference that is different from the order specified in par.  
13 (a), the order of preference established by that tribe shall be followed, in the absence  
14 of good cause, as described in par. (d), to the contrary, so long as the placement is the  
15 least restrictive setting appropriate for the Indian juvenile's needs as specified in  
16 par. (a). When appropriate, the preference of the Indian juvenile or parent shall be  
17 considered, and, when a parent who has consented to the placement evidences a  
18 desire for anonymity, that desire shall be given weight, in determining the  
19 placement.

20 (c) *Social and cultural standards.* The standards to be applied in meeting the  
21 placement preference requirements of this subsection shall be the prevailing social  
22 and cultural standards of the Indian community in which the Indian juvenile's  
23 parents or extended family members reside or with which the Indian juvenile's  
24 parents or extended family members maintain social and cultural ties.

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1           (d) *Good cause.* 1. Whether there is good cause to depart from the order of  
2 placement preference under par. (a) or (b) shall be determined based on any one or  
3 more of the following considerations:

4           a. When appropriate, the request of the Indian juvenile's parent or, if the Indian  
5 juvenile is of sufficient age and developmental level to make an informed decision,  
6 the Indian juvenile, unless the request is made for the purpose of avoiding the  
7 application of this section and the federal Indian Child Welfare Act, 26 USC 1901 to  
8 1963.

9           b. Any extraordinary physical, mental, or emotional health needs of the Indian  
10 juvenile requiring highly specialized treatment services as established by the  
11 testimony of an expert witness, including a qualified expert witness. The length of  
12 time that an Indian juvenile has been in a placement does not, in itself, constitute  
13 an extraordinary emotional health need.

14           c. The unavailability of a suitable placement for the Indian juvenile after active  
15 efforts, as described in sub. (4) (f), have been made to place the Indian juvenile in the  
16 order of preference under par. (a) or (b).

17           2. The burden of establishing good cause to depart from the order of placement  
18 preference under par. (a) or (b) shall be on the party requesting that departure.

19           (e) *Report of placement.* The department of health and family services, a county  
20 department, or a child welfare agency shall maintain a record of each out-of-home  
21 care placement made of an Indian juvenile who is in need of protection or services  
22 under s. 938.13 (4), (6), (6m), or (7), evidencing the efforts made to comply with the  
23 placement preference requirements specified in this subsection, and shall make that  
24 record available at any time on the request of the U.S. secretary of the interior or the  
25 Indian juvenile's tribe.

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1           **(7) RETURN OF CUSTODY; REMOVAL FROM OUT-OF-HOME CARE PLACEMENT.** If an  
2 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),  
3 or (7) is removed from an out-of-home care placement for the purpose of placing the  
4 Indian juvenile in another out-of-home care placement, a preadoptive placement,  
5 as defined in s. 48.028 (2) (f), or an adoptive placement, as defined in s. 48.028 (2) (a),  
6 the placement shall be made in accordance with this section and s. 48.028. Removal  
7 of such an Indian juvenile from an out-of-home care placement for the purpose of  
8 returning the Indian juvenile to the home of the parent or Indian custodian from  
9 whose custody the Indian juvenile was originally removed is not subject to this  
10 section.

11           **(8) HIGHER STATE OR FEDERAL STANDARD APPLICABLE.** The federal Indian Child  
12 Welfare Act, 25 USC 1911 to 1963, supersedes this chapter in any Indian juvenile  
13 custody proceeding governed by that act, except that in any case in which this  
14 chapter provides a higher standard of protection for the rights of an Indian juvenile's  
15 parent or Indian custodian than the rights provided under that act, the court shall  
16 apply the standard under this chapter.

17           **(9) RULES.** The department shall promulgate rules to implement and  
18 administer this section and the federal Indian Child Welfare Act, 25 USC 1901 to  
19 1963.

20           **SECTION 246.** 938.13 (intro.) of the statutes is amended to read:

21           **938.13 Jurisdiction over juveniles alleged to be in need of protection**  
22 **or services.** (intro.) The Except as provided in s. 938.028 (3), the court has exclusive  
23 original jurisdiction over a juvenile alleged to be in need of protection or services  
24 which can be ordered by the court if any of the following conditions applies:

25           **SECTION 247.** 938.15 of the statutes is amended to read:

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1           **938.15 Jurisdiction of other courts to determine legal custody.** ~~Nothing~~  
2       Except as provided in s. 938.028 (3), nothing in this chapter deprives another court  
3       of the right to determine the legal custody juvenile by habeas corpus or to determine  
4       the legal custody or guardianship of a juvenile if the legal custody or guardianship  
5       is incidental to the determination of an action pending in that court. ~~But~~ Except as  
6       provided in s. 938.028 (3), the jurisdiction of the court assigned to exercise  
7       jurisdiction under this chapter and ch. 48 is paramount in all cases involving  
8       juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

9           **SECTION 248.** 938.185 (4) (title) of the statutes is amended to read:

10          938.185 (4) (title) ~~AMERICAN INDIAN JUVENILES.~~

11          **SECTION 249.** 938.185 (4) (intro.) of the statutes is amended to read:

12          938.185 (4) (intro.) Venue for a proceeding under s. 938.12 or 938.13 (12) based  
13       on an allegation that an ~~American~~ Indian juvenile has committed a delinquent act  
14       may not be in the county specified in sub. (1) (a), unless that county is specified in  
15       sub. (1) (b) or (c), if all of the following circumstances apply:

16          **SECTION 250.** 938.185 (4) (a) of the statutes is amended to read:

17          938.185 (4) (a) At the time of the alleged delinquent act the juvenile was under  
18       an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to adoption,  
19       physical placement or visitation with the juvenile's parent, or permanent  
20       guardianship.

21          **SECTION 251.** 938.185 (4) (b) of the statutes is amended to read:

22          938.185 (4) (b) At the time of the alleged delinquent act the juvenile was  
23       physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe  
24       of the tribal court and any off-reservation trust land of either that Indian tribe or a  
25       member of that Indian tribe as a direct consequence of a tribal court order under par.

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1 (a), including a tribal court order placing the juvenile in the home of a relative of the  
2 juvenile who on or after the date of the tribal court order resides physically outside  
3 the boundaries of a reservation and off-reservation trust land.

4 **SECTION 252.** 938.19 (2) of the statutes is amended to read:

5 938.19 (2) NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN  
6 CUSTODIAN. When a juvenile is taken into physical custody under this section, the  
7 person taking the juvenile into custody shall immediately attempt to notify the  
8 parent, guardian, ~~and legal custodian, and Indian custodian~~ of the juvenile by the  
9 most practical means. The person taking the juvenile into custody shall continue  
10 such attempt until the parent, guardian, ~~and legal custodian, and Indian custodian~~  
11 of the juvenile are notified, or the juvenile is delivered to an intake worker under s.  
12 938.20 (3), whichever occurs first. If the juvenile is delivered to the intake worker  
13 before the parent, guardian, ~~and legal custodian, and Indian custodian~~ are notified,  
14 the intake worker, or another person at his or her direction, shall continue the  
15 attempt to notify until the parent, guardian, ~~and legal custodian, and Indian~~  
16 custodian of the juvenile are notified.

17 **SECTION 253.** 938.20 (2) (ag) of the statutes is amended to read:

18 938.20 (2) (ag) Except as provided in pars. (b) to (g), a person taking a juvenile  
19 into custody shall make every effort to release the juvenile immediately to the  
20 juvenile's parent, guardian ~~or~~, legal custodian, or Indian custodian.

21 **SECTION 254.** 938.20 (2) (b) of the statutes is amended to read:

22 938.20 (2) (b) If the juvenile's parent, guardian ~~or~~, legal custodian, or Indian  
23 custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,  
24 the person who took the juvenile into custody may release the juvenile to a  
25 responsible adult after counseling or warning the juvenile as may be appropriate.