

1 938.27 (3) (a) 2. Failure to give notice under subd. 1. to a foster parent,
2 ~~treatment foster parent~~ or other physical custodian described in s. 48.62 (2) does not
3 deprive the court of jurisdiction in the action or proceeding. If a foster parent,
4 ~~treatment foster parent~~ or other physical custodian described in s. 48.62 (2) is not
5 given notice of a hearing under subd. 1., that person may request a rehearing on the
6 matter during the pendency of an order resulting from the hearing. If the request
7 is made, the court shall order a rehearing. ✓

8 **History:** 1995 a. 77, 275; 1997 a. 80, 181, 237; 2005 a. 293, 344; 2005 a. 443 s. 265; 2007 a. 96.

SECTION 267. 938.27 (6) of the statutes is amended to read:

9 938.27 (6) INTERSTATE COMPACT PROCEEDINGS; NOTICE AND SUMMONS. When a
10 proceeding is initiated under s. 938.14, all interested parties shall receive notice and
11 appropriate summons shall be issued in a manner specified by the court. If the
12 juvenile who is the subject of the proceeding is in the care of a foster parent,
13 ~~treatment foster parent~~, or other physical custodian described in s. 48.62 (2), the
14 court shall give the foster parent, ~~treatment foster parent~~, or other physical
15 custodian notice and an opportunity to be heard as provided in sub. (3) (a). ✓

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16 **History:** 1995 a. 77, 275; 1997 a. 80, 181, 237; 2005 a. 293, 344; 2005 a. 443 s. 265; 2007 a. 96.

SECTION 268. 938.32 (1) (d) 2. of the statutes is amended to read:

17 938.32 (1) (d) 2. At least 10 days before the date of the hearing under subd. 1.,
18 the court shall notify the juvenile, any parent, guardian, and legal custodian of the
19 juvenile, and any foster parent, ~~treatment foster parent~~, or other physical custodian
20 described in s. 48.62 (2) of the juvenile of the time, place, and purpose of the hearing. ✓

21 **History:** 1995 a. 77, 352, 448; 1997 a. 181, 183, 205, 239; 1999 a. 9, 32; 2001 a. 16, 61, 105, 109; 2003 a. 138; 2005 a. 344; 2007 a. 20.

SECTION 269. 938.32 (1) (d) 3. of the statutes is amended to read:

22 938.32 (1) (d) 3. The court shall give a foster parent, ~~treatment foster parent~~,
23 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
24 subd. 2. an opportunity to be heard at the hearing by permitting the foster parent,

1 ~~treatment foster parent~~, or other physical custodian to make a written or oral
2 statement during the hearing, or to submit a written statement prior to the hearing,
3 relevant to the issues to be determined at the hearing. The foster parent, ~~treatment~~
4 ~~foster parent~~, or other physical custodian does not become a party to the proceeding
5 on which the hearing is held solely on the basis of receiving the notice and having the
6 opportunity to be heard. ✓

7 **History:** 1995 a. 77, 352, 448; 1997 a. 181, 183, 205, 239; 1999 a. 9, 32; 2001 a. 16, 61, 105, 109; 2003 a. 138; 2005 a. 344; 2007 a. 20.

8 **SECTION 270.** 938.33 (4) (intro.) of the statutes is amended to read:

9 938.33 (4) OTHER OUT-OF-HOME PLACEMENTS. (intro.) A report recommending
10 placement in a foster home, ~~treatment foster home~~, group home, or nonsecured
11 residential care center for children and youth, in the home of a relative other than
12 a parent, or in the home of a guardian under s. 48.977 (2) shall be in writing, except
13 that the report may be presented orally at the dispositional hearing if all parties
14 consent. A report that is presented orally shall be transcribed and made a part of the
15 court record. The report shall include all of the following: ✓

16 **History:** 1995 a. 77, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9; 2001 a. 59, 109; 2005 a. 25, 344.

17 **SECTION 271.** 938.33 (5) of the statutes is amended to read:

18 938.33 (5) IDENTITY OF FOSTER PARENT OR ~~TREATMENT FOSTER PARENT~~,
19 CONFIDENTIALITY. If the report recommends placement in a foster home or a ~~treatment~~
20 ~~foster home~~, and the name of the foster parent or ~~treatment foster parent~~ is not
21 available at the time the report is filed, the agency shall provide the court and the
22 juvenile's parent or guardian with the name and address of the foster parent or
23 ~~treatment foster parent~~ within 21 days after the dispositional order is entered,
24 except that the court may order the information withheld from the juvenile's parent
or guardian if the court finds that disclosure would result in imminent danger to the
juvenile or to the foster parent or ~~treatment foster parent~~. After notifying the

1 juvenile's parent or guardian, the court shall hold a hearing prior to ordering the
2 information withheld. ✓

3 **History:** 1995 a. 77, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9; 2001 a. 59, 109; 2005 a. 25, 344.

3 **SECTION 272.** 938.335 (3g) (intro.) of the statutes is amended to read:

4 938.335 (3g) REASONABLE EFFORTS FINDING. (intro.) At hearings under this
5 section, if the agency, as defined in s. 938.38 (1) (a), is recommending placement of
6 the juvenile in a foster home, ~~treatment foster home~~, group home, or residential care
7 center for children and youth, or in the home of a relative other than a parent, the
8 agency shall present as evidence specific information showing all of the following: ✓

9 **History:** 1995 a. 77; 1997 a. 181, 252; 2001 a. 109; 2005 a. 344.

9 **SECTION 273.** 938.34 (3) (c) of the statutes is amended to read:

10 938.34 (3) (c) A foster home ~~or treatment foster home~~ licensed under s. 48.62
11 or a group home licensed under s. 48.625. ✓

12 **History:** 1995 a. 77, 352, 440, 448; 1997 a. 27, 35, 36, 84, 130, 164, 183, 205; 1999 a. 9, 32, 57, 89, 185; 2001 a. 16, 59, 69, 109; 2003 a. 33, 50, 200, 321;
2005 a. 14, 253, 277, 344; 2007 a. 97, 116.

12 **SECTION 274.** 938.355 (2) (b) 2. of the statutes is amended to read:

13 938.355 (2) (b) 2. If the juvenile is placed outside the home, the name of the
14 place or facility, including transitional placements, where the juvenile shall be cared
15 for or treated, except that if the placement is a foster home ~~or treatment foster home~~
16 and the name and address of the foster parent ~~or treatment foster parent~~ is not
17 available at the time of the order, the name and address of the foster parent ~~or~~
18 ~~treatment foster parent~~ shall be furnished to the court and the parent within 21 days
19 of after the order. If, after a hearing on the issue with due notice to the parent or
20 guardian, the court finds that disclosure of the identity of the foster parent ~~or~~
21 ~~treatment foster parent~~ would result in imminent danger to the juvenile, ~~the foster~~
22 parent or the ~~treatment foster parent~~, the court may order the name and address of

1 the prospective foster parents ~~or treatment foster parents~~ withheld from the parent
2 or guardian. ✓

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, ~~337~~, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; s. 13.92
(2) (i).

3 **SECTION 275.** 938.355 (2d) (c) 2. of the statutes is amended to read:

4 938.355 (2d) (c) 2. If a hearing is held under subd. 1., at least 10 days before
5 the date of the hearing the court shall notify the juvenile, any parent, guardian, and
6 legal custodian of the juvenile, and any foster parent, ~~treatment foster parent~~, or
7 other physical custodian described in s. 48.62 (2) of the juvenile of the time, place,
8 and purpose of the hearing. ✓

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, ~~337~~, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; s. 13.92
(2) (i).

9 **SECTION 276.** 938.355 (2d) (c) 3. of the statutes is amended to read:

10 938.355 (2d) (c) 3. The court shall give a foster parent, ~~treatment foster parent~~,
11 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
12 subd. 2. an opportunity to be heard at the hearing by permitting the foster parent,
13 ~~treatment foster parent~~, or other physical custodian to make a written or oral
14 statement during the hearing, or to submit a written statement prior to the hearing,
15 relevant to the issues to be determined at the hearing. A foster parent, ~~treatment~~
16 ~~foster parent~~, or other physical custodian who receives a notice of a hearing under
17 subd. 2. and an opportunity to be heard under this subdivision does not become a
18 party to the proceeding on which the hearing is held solely on the basis of receiving
19 that notice and opportunity to be heard. ✓

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, ~~337~~, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; s. 13.92
(2) (i).

20 **SECTION 277.** 938.355 (4) (a) of the statutes is amended to read:

21 938.355 (4) (a) Except as provided under par. (b) or s. 938.368, an order under
22 this section or s. 938.357 or 938.365 made before the juvenile attains 18 years of age
23 that places or continues the placement of the juvenile in his or her home shall

1 terminate at the end of one year after the date on which the order is granted unless
 2 the court specifies a shorter period of time or the court terminates the order sooner.
 3 Except as provided in par. (b) or s. 938.368, an order under this section or s. 938.357
 4 or 938.365 made before the juvenile attains 18 years of age that places or continues
 5 the placement of the juvenile in a foster home, ^{plain} ~~treatment foster home~~, group home,
 6 or residential care center for children and youth or in the home of a relative other
 7 than a parent shall terminate when the juvenile attains 18 years of age, at the end
 8 of one year after the date on which the order is granted, or, if the juvenile is a
 9 full-time student at a secondary school or its vocational or technical equivalent and
 10 is reasonably expected to complete the program before attaining 19 years of age,
 11 when the juvenile attains 19 years of age, whichever is later, unless the court
 12 specifies a shorter period of time or the court terminates the order sooner. ✓

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; s. 13.92
 (2) (i).

SECTION 278. 938.357 (1) (am) 1. of the statutes is amended to read:

14 938.357 (1) (am) 1. If the proposed change in placement involves any change
 15 in placement other than a change in placement under par. (c), the person or agency
 16 primarily responsible for implementing the dispositional order or the district
 17 attorney shall cause written notice of the proposed change in placement to be sent
 18 to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any
 19 foster parent, ~~treatment foster parent~~, or other physical custodian described in s.
 20 48.62 (2) of the juvenile. The notice shall contain the name and address of the new
 21 placement, the reasons for the change in placement, a statement describing why the
 22 new placement is preferable to the present placement, and a statement of how the
 23 new placement satisfies objectives of the treatment plan ordered by the court. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

SECTION 279. 938.357 (1) (am) 2. of the statutes is amended to read:

1 938.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of
2 a specific foster ~~or treatment foster~~ placement under s. 938.355 (2) (b) 2. may obtain
3 a hearing on the matter by filing an objection with the court within 10 days after
4 receipt of the notice. Placements may not be changed until 10 days after that notice
5 is sent to the court unless the parent, guardian, or legal custodian and the juvenile,
6 if 12 or more years of age, sign written waivers of objection, except that changes in
7 placement that were authorized in the dispositional order may be made immediately
8 if notice is given as required under subd. 1. In addition, a hearing is not required for
9 placement changes authorized in the dispositional order except when an objection
10 filed by a person who received notice alleges that new information is available that
11 affects the advisability of the court's dispositional order. ✓

12 **History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

SECTION 280. 938.357 (2m) (b) of the statutes is amended to read:

13 938.357 (2m) (b) *Hearing; when required.* The court shall hold a hearing prior
14 to ordering any change in placement requested or proposed under par. (a) if the
15 request states that new information is available that affects the advisability of the
16 current placement. A hearing is not required if the requested or proposed change in
17 placement does not involve a change in placement of a juvenile placed in the home
18 to a placement outside the home, written waivers of objection to the proposed change
19 in placement are signed by all parties entitled to receive notice under sub. (1) (am)
20 1., and the court approves. If a hearing is scheduled, the court shall notify the
21 juvenile, the parent, guardian, and legal custodian of the juvenile, any foster parent,
22 ~~treatment foster parent~~, or other physical custodian described in s. 48.62 (2) of the
23 juvenile, and all parties who are bound by the dispositional order at least 3 days prior
24 to the hearing. A copy of the request or proposal for the change in placement shall

1 be attached to the notice. If all of the parties consent, the court may proceed
2 immediately with the hearing. ✓

3 **History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

3 **SECTION 281.** 938.357 (2r) of the statutes is amended to read:

4 938.357 (2r) REMOVAL FROM FOSTER HOME OR PHYSICAL CUSTODIAN. If a hearing
5 is held under sub. (1) (am) 2. or (2m) (b) and the change in placement would remove
6 a juvenile from a foster home, ~~treatment foster home~~, or other placement with a
7 physical custodian described in s. 48.62 (2), the court shall give the foster parent,
8 ~~treatment foster parent~~, or other physical custodian an opportunity to be heard at
9 the hearing by permitting the foster parent, ~~treatment foster parent~~, or other
10 physical custodian to make a written or oral statement during the hearing or to
11 submit a written statement prior to the hearing relating to the juvenile and the
12 requested change in placement. A foster parent, ~~treatment foster parent~~, or other
13 physical custodian who receives notice of a hearing under sub. (1) (am) 1. or (2m) (b)
14 and an opportunity to be heard under this subsection does not become a party to the
15 proceeding on which the hearing is held solely on the basis of receiving that notice
16 and opportunity to be heard. ✓

17 **History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

17 **SECTION 282.** 938.357 (2v) (c) 2. of the statutes is amended to read:

18 938.357 (2v) (c) 2. If a hearing is held under subd. 1., at least 10 days before
19 the date of the hearing the court shall notify the juvenile, any parent, guardian, and
20 legal custodian of the juvenile, and any foster parent, ~~treatment foster parent~~, or
21 other physical custodian described in s. 48.62 (2) of the juvenile of the time, place,
22 and purpose of the hearing. ✓

23 **History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

23 **SECTION 283.** 938.357 (2v) (c) 3. of the statutes is amended to read:

1 938.357 (2v) (c) 3. The court shall give a foster parent, ~~treatment foster parent,~~
2 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
3 subd. 2. an opportunity to be heard at the hearing by permitting the foster parent,
4 ~~treatment foster parent,~~ or other physical custodian to make a written or oral
5 statement during the hearing, or to submit a written statement prior to the hearing,
6 relevant to the issues to be determined at the hearing. A foster parent, ~~treatment~~
7 ~~foster parent,~~ or other physical custodian who receives a notice of a hearing under
8 subd. 2. and an opportunity to be heard under this subdivision does not become a
9 party to the proceeding on which the hearing is held solely on the basis of receiving
10 that notice and opportunity to be heard. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, ~~275~~, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

11 **SECTION 284.** 938.357 (6) of the statutes is amended to read:

12 938.357 (6) DURATION OF ORDER. No change in placement may extend the
13 expiration date of the original order, except that if the change in placement is from
14 a placement in the juvenile's home to a placement in a foster home, ~~treatment foster~~
15 ~~home,~~ group home, or residential care center for children and youth or in the home
16 of a relative who is not a parent, the court may extend the expiration date of the
17 original order to the date on which the juvenile attains 18 years of age, to the date
18 that is one year after the date of the change in placement order, or, if the juvenile is
19 a full-time student at a secondary school or its vocational or technical equivalent and
20 is reasonably expected to complete the program before attaining 19 years of age, to
21 the date on which the juvenile attains 19 years of age, whichever is later, or for a
22 shorter period of time as specified by the court. If the change in placement is from
23 a placement in a foster home, ~~treatment foster home,~~ group home, or residential care
24 center for children and youth or in the home of a relative to a placement in the

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

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199.

5 **SECTION 285.** 938.363 (1) (b) of the statutes is amended to read:

6 938.363 (1) (b) If a hearing is held, the court shall notify the juvenile, the
7 juvenile's parent, guardian, and legal custodian, all parties bound by the
8 dispositional order, the juvenile's foster parent, ~~treatment foster parent~~, or other
9 physical custodian described in s. 48.62 (2), and the district attorney or corporation
10 counsel in the county in which the dispositional order was entered at least 3 days
11 prior to the hearing. A copy of the request or proposal shall be attached to the notice.
12 If all parties consent, the court may proceed immediately with the hearing. No
13 revision may extend the effective period of the original order, or revise an original
14 order under s. 938.34 (3) (f) or (6) (am) to impose more than a total of 30 days of
15 detention, nonsecure custody, or inpatient treatment on a juvenile. ✓

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275; 1997 a. 35, 80, 237, 252; 1999 a. 103; 2001 a. 38, 109; 2005 a. 344; 2007 a. 20.

16 **SECTION 286.** 938.363 (1m) of the statutes is amended to read:

17 938.363 (1m) EVIDENCE AND STATEMENTS. If a hearing is held under sub. (1) (a),
18 any party may present evidence relevant to the issue of revision of the dispositional
19 order. In addition, the court shall give a foster parent, ~~treatment foster parent~~, or
20 other physical custodian described in s. 48.62 (2) of the juvenile an opportunity to be
21 heard at the hearing by permitting the foster parent, ~~treatment foster parent~~, or
22 other physical custodian to make a written or oral statement during the hearing, or
23 to submit a written statement prior to the hearing, relevant to the issue of revision.
24 A foster parent, ~~treatment foster parent~~, or other physical custodian who receives

1 notice of a hearing under sub. (1) (a) and an opportunity to be heard under this
2 subsection does not become a party to the proceeding on which the hearing is held
3 solely on the basis of receiving that notice and opportunity to be heard. ✓

4 **History:** 1995 a. 27 s. 9126 (19); 1995 a. 77, 275; 1997 a. 35, 80, 237, 252; 1999 a. 103; 2001 a. 38, 109; 2005 a. 344; 2007 a. 20.

SECTION 287. 938.365 (2) of the statutes is amended to read:

5 938.365 (2) NOTICE. No order may be extended without a hearing. The court
6 shall notify the juvenile or the juvenile's guardian ad litem or counsel, the juvenile's
7 parent, guardian, legal custodian, all of the parties present at the original hearing,
8 the juvenile's foster parent, ~~treatment foster parent~~ or other physical custodian
9 described in s. 48.62 (2), and the district attorney or corporation counsel in the county
10 in which the dispositional order was entered of the time and place of the hearing. ✓

11 **History:** 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109; 2005 a. 344; 2007 a. 199.

SECTION 288. 938.365 (2m) (ad) 2. of the statutes is amended to read:

12 938.365 (2m) (ad) 2. If a hearing is held under subd. 1., at least 10 days before
13 the date of the hearing the court shall notify the juvenile, any parent, guardian, and
14 legal custodian of the juvenile, and any foster parent, ~~treatment foster parent~~, or
15 other physical custodian described in s. 48.62 (2) of the juvenile of the time, place,
16 and purpose of the hearing. ✓

17 **History:** 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109; 2005 a. 344; 2007 a. 199.

SECTION 289. 938.365 (2m) (ag) of the statutes is amended to read:

18 938.365 (2m) (ag) The court shall give a foster parent, ~~treatment foster parent~~,
19 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under
20 par. (ad) 2. or sub. (2) an opportunity to be heard at the hearing by permitting the
21 foster parent, ~~treatment foster parent~~, or other physical custodian to make a written
22 or oral statement during the hearing, or to submit a written statement prior to the
23 hearing, relevant to the issue of extension. A foster parent, ~~treatment foster parent~~,
24 or other physical custodian who receives notice of a hearing under par. (ad) 2. or sub.

1 (2) and an opportunity to be heard under this paragraph does not become a party to
2 the proceeding on which the hearing is held solely on the basis of receiving that notice
3 and opportunity to be heard. ✓

4 **History:** 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109; 2005 a. 344; 2007 a. 199.

SECTION 290. 938.365 (5) of the statutes is amended to read:

5 938.365 (5) DURATION OF EXTENSION. Except as provided in s. 938.368, an order
6 under this section that continues the placement of a juvenile in his or her home or
7 that extends an order under s. 938.34 (4d), (4h), (4m), or (4n) shall be for a specified
8 length of time not to exceed one year after its date of entry. Except as provided in s.
9 938.368, an order under this section that continues the placement of a juvenile in a
10 foster home, ~~treatment foster home~~, group home, or residential care center for
11 children and youth or in the home of a relative other than a parent shall be for a
12 specified length of time not to exceed the date on which the juvenile attains 18 years
13 of age, one year after the date on which the order is granted, or, if the juvenile is a
14 full-time student at a secondary school or its vocational or technical equivalent and
15 is reasonably expected to complete the program before attaining 19 years of age, the
16 date on which the juvenile attains 19 years of age, whichever is later. ✓

17 **History:** 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 237; 2001 a. 109; 2005 a. 344; 2007 a. 199.

SECTION 291. 938.371 (1) (intro.) of the statutes is amended to read:

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

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

5 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 272; 1999 a. 32; 2001 a. 59; 2005 a. 232, 277, 344; 2007 a. 97.

SECTION 292. 938.371 (1) (a) of the statutes is amended to read:

6 938.371 (1) (a) Results of a test or a series of tests of the juvenile to determine
7 the presence of HIV, as defined in s. 968.38 (1) (b), antigen or nonantigenic products
8 of HIV, or an antibody to HIV, under s. 252.15 (5) (a) 19., including results included
9 in a court report or permanency plan. At the time that the test results are provided,
10 the agency shall notify the foster parent, ~~treatment foster parent~~, relative, or
11 operator of the group home, residential care center for children and youth, or juvenile
12 correctional facility of the confidentiality requirements under s. 252.15 (6). ✓

13 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 272; 1999 a. 32; 2001 a. 59; 2005 a. 232, 277, 344; 2007 a. 97.

SECTION 293. 938.371 (3) (intro.) of the statutes is amended to read:

14 938.371 (3) OTHER INFORMATION. (intro.) At the time of placement of a juvenile
15 in a foster home, ~~treatment foster home~~, group home, residential care center for
16 children and youth, or juvenile correctional facility or in the home of a relative other
17 than a parent or, if the information is not available at that time, as soon as possible
18 after the date on which the court report or permanency plan has been submitted, but
19 no later than 7 days after that date, the agency, as defined in s. 938.38 (1) (a),
20 responsible for preparing the juvenile's permanency plan shall provide to the foster
21 parent, ~~treatment foster parent~~, relative, or operator of the group home, residential
22 care center for children and youth, or juvenile correctional facility information
23 contained in the court report submitted under s. 938.33 (1) or 938.365 (2g) or
24 permanency plan submitted under s. 938.355 (2e) or 938.38 relating to findings or

1 opinions of the court or agency that prepared the court report or permanency plan
2 relating to any of the following: ✓

3 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 272, 296; 1999 a. 32; 2001 a. 59; 2005 a. 232, 277, 344; 2007 a. 97.

3 **SECTION 294.** 938.371 (3) (d) of the statutes is amended to read:

4 938.371 (3) (d) Any involvement of the juvenile, whether as victim or
5 perpetrator, in sexual intercourse or sexual contact in violation of s. 940.225, 948.02,
6 948.025, or 948.085, prostitution in violation of s. 944.30, sexual exploitation of a
7 child in violation of s. 948.05, or causing a child to view or listen to sexual activity
8 in violation of s. 948.055, if the information is necessary for the care of the juvenile
9 or for the protection of any person living in the foster home, ~~treatment foster home,~~
10 group home, residential care center for children and youth, or juvenile correctional
11 facility. ✓

12 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 272, 296; 1999 a. 32; 2001 a. 59; 2005 a. 232, 277, 344; 2007 a. 97.

12 **SECTION 295.** 938.38 (2) (intro.) of the statutes is amended to read:

13 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
14 for each juvenile living in a foster home, ~~treatment foster home,~~ group home,
15 residential care center for children and youth, juvenile detention facility, or shelter
16 care facility, the agency that placed the juvenile or arranged the placement or the
17 agency assigned primary responsibility for providing services to the juvenile under
18 s. 938.355 (2) (b) 6g. shall prepare a written permanency plan, if any of the following
19 conditions exists, and, for each juvenile living in the home of a relative other than
20 a parent, that agency shall prepare a written permanency plan, if any of the
21 conditions under pars. (a) to (e) exists: ✓

22 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 272, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.

22 **SECTION 296.** 938.38 (4) (f) (intro.) of the statutes is amended to read:

23 938.38 (4) (f) (intro.) A description of the services that will be provided to the
24 juvenile, the juvenile's family, and the juvenile's foster parent, ~~the juvenile's~~

1 ~~treatment foster parent~~, the operator of the facility where the juvenile is living, or
2 the relative with whom the juvenile is living to carry out the dispositional order,
3 including services planned to accomplish all of the following: ✓

4 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.

4 **SECTION 297.** 938.38 (5) (b) of the statutes is amended to read:

5 938.38 (5) (b) The court or the agency shall notify the parents of the juvenile,
6 the juvenile, if he or she is 10 years of age or older, and the juvenile's foster parent,
7 ~~the juvenile's treatment foster parent~~, the operator of the facility in which the
8 juvenile is living, or the relative with whom the juvenile is living of the date, time,
9 and place of the review, of the issues to be determined as part of the review, and of
10 the fact that they may have an opportunity to be heard at the review by submitting
11 written comments not less than 10 working days before the review or by
12 participating at the review. The court or agency shall notify the person representing
13 the interests of the public, the juvenile's counsel, and the juvenile's guardian ad litem
14 of the date of the review, of the issues to be determined as part of the review, and of
15 the fact that they may submit written comments not less than 10 working days before
16 the review. The notices under this paragraph shall be provided in writing not less
17 than 30 days before the review and copies of the notices shall be filed in the juvenile's
18 case record. ✓

19 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.

19 **SECTION 298.** 938.38 (5) (e) of the statutes is amended to read:

20 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
21 the determinations under par. (c) and shall provide a copy to the court that entered
22 the order, the juvenile or the juvenile's counsel or guardian ad litem, the person
23 representing the interests of the public, the juvenile's parent or guardian and the

Insert
113-2

juvenile's foster parent, ~~the juvenile's treatment foster parent~~ or the operator of the facility where the juvenile is living. ✓

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.

SECTION 299. 938.38 (5m) (c) of the statutes is amended to read:

938.38 (5m) (c) Any person who is provided notice of the hearing may have an opportunity to be heard at the hearing by submitting written comments relevant to the determinations specified in sub. (5) (c) not less than 10 working days before the date of the hearing or by participating at the hearing. A foster parent, ~~treatment foster parent~~, operator of a facility in which a juvenile is living, or relative with whom a juvenile is living who receives notice of a hearing under par. (b) and an opportunity to be heard under this paragraph does not become a party to the proceeding on which the hearing is held solely on the basis of receiving that notice and opportunity to be heard. ✓

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.

SECTION 300. 938.38 (5m) (e) of the statutes is amended to read:

938.38 (5m) (e) After the hearing, the court shall make written findings of fact and conclusions of law relating to the determinations under sub. (5) (c) and shall provide a copy of those findings of fact and conclusions of law to the juvenile; the juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or ~~treatment foster parent~~, the operator of the facility in which the juvenile is living, or the relative with whom the juvenile is living; the agency that prepared the permanency plan; and the person representing the interests of the public. The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the juvenile and shall document or reference the specific information on which those findings are based in the findings of fact and conclusions of law prepared under this paragraph. Findings of fact and conclusions of law that

1 merely reference sub. (5) (c) 7. without documenting or referencing that specific
2 information in the findings of fact and conclusions of law or amended findings of fact
3 and conclusions of law that retroactively correct earlier findings of fact and
4 conclusions of law that do not comply with this paragraph are not sufficient to comply
5 with this paragraph. ✓

6 **History:** 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.

SECTION 301. 938.48 (4) of the statutes is amended to read:

7 938.48 (4) CARE, TRAINING, AND PLACEMENT. Provide appropriate care and
8 training for juveniles under its supervision under s. 938.183, 938.34 (4h), (4m), or
9 (4n), or 938.357 (4), including serving those juveniles in their own homes, placing
10 them in licensed foster homes ~~or licensed treatment foster homes~~ or licensed group
11 homes under s. 48.63, contracting for their care by licensed child welfare agencies,
12 or replacing them in juvenile correctional facilities or secured residential care
13 centers for children and youth in accordance with rules promulgated under ch. 227,
14 except that the department may not purchase the educational component of private
15 day treatment programs for a juvenile in its custody unless the department, the
16 school board, as defined in s. 115.001 (7), and the state superintendent of public
17 instruction all determine that an appropriate public education program is not
18 available for the juvenile. Disputes between the department and the school district
19 shall be resolved by the state superintendent of public instruction. ✓

20 **History:** 1995 a. 77; 1997 a. 27; 2001 a. 38; 2005 a. 344.

SECTION 302. 938.52 (1) (b) of the statutes is amended to read:

21 938.52 (1) (b) Foster homes ~~or treatment foster homes~~. ✓

22 **History:** 1995 a. 77; 2005 a. 344.

SECTION 303. 938.538 (3) (a) 1p. of the statutes is amended to read:

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

History: 1995 a. 77, 352; 1997 a. 27, 35; 2001 a. 16, 59; 2003 a. 33 ss. 2733, 9160; 2005 a. 344; 2007 a. 20 ss. 3828, 9121 (6) (a).

4 **SECTION 304.** 938.57 (1) (c) of the statutes is amended to read:

5 938.57 (1) (c) Provide appropriate protection and services for juveniles in its
6 care, including providing services for juveniles and their families in their own homes,
7 placing the juveniles in licensed foster homes, ~~licensed treatment foster homes~~, or
8 licensed group homes in this state or another state within a reasonable proximity to
9 the agency with legal custody, placing the juveniles in the homes of guardians under
10 s. 48.977 (2), contracting for services for them by licensed child welfare agencies, or
11 replacing them in juvenile correctional facilities or secured residential care centers
12 for children and youth in accordance with rules promulgated under ch. 227, except
13 that the county department may not purchase the educational component of private
14 day treatment programs unless the county department, the school board, as defined
15 in s. 115.001 (7), and the state superintendent of public instruction determine that
16 an appropriate public education program is not available. Disputes between the
17 county department and the school district shall be resolved by the state
18 superintendent of public instruction. ✓

History: 1995 a. 77; 1997 a. 27, 35; 1999 a. 9; 2001 a. 38, 59; 2005 a. 25, 293, 344; 2007 a. 20, 97.

19 **SECTION 305.** 938.57 (3) (a) 4. of the statutes is amended to read:

20 938.57 (3) (a) 4. Is living in a foster home, ~~treatment foster home~~, group home,
21 residential care center for children and youth, or subsidized guardianship home
22 under s. 48.62 (5). ✓

History: 1995 a. 77; 1997 a. 27, 35; 1999 a. 9; 2001 a. 38, 59; 2005 a. 25, 293, 344; 2007 a. 20, 97.

23 **SECTION 306.** 940.201 (1) (a) of the statutes is amended to read:

1 940.201 (1) (a) "Family member" means a spouse, child, stepchild, foster child,
2 ~~treatment foster child,~~ parent, sibling, or grandchild. ✓

3 **History:** 1997 a. 143; 2001 a. 109. ✓

SECTION 307. 940.203 (1) (a) of the statutes is amended to read:

4 940.203 (1) (a) "Family member" means a parent, spouse, sibling, child,
5 stepchild, ~~foster child~~ or ~~treatment foster child.~~ ✓

6 **History:** 1993 a. 50, 446; 2001 a. 61, 109. ✓

SECTION 308. 940.205 (1) of the statutes is amended to read:

7 940.205 (1) In this section, "family member" means a parent, spouse, sibling,
8 child, stepchild, ~~foster child~~ or ~~treatment foster child.~~ ✓

9 **History:** 1985 a. 29; 1993 a. 446; 2001 a. 109. ✓

SECTION 309. 940.207 (1) of the statutes is amended to read:

10 940.207 (1) In this section, "family member" means a parent, spouse, sibling,
11 child, stepchild, ~~foster child~~ or ~~treatment foster child.~~ ✓

12 **History:** 1993 a. 86, 446; 1995 a. 27 ss. 7227 to 7229, 9116 (5), 9130 (4); 1997 a. 3; 2001 a. 109. ✓

SECTION 310. 940.43 (1) of the statutes is amended to read:

13 940.43 (1) Where the act is accompanied by force or violence or attempted force
14 or violence, upon the witness, or the spouse, child, stepchild, foster child, ~~treatment~~
15 ~~foster child,~~ parent, sibling, or grandchild of the witness, or any person sharing a
16 common domicile with the witness. ✓

17 **History:** 1981 c. 118; 1997 a. 143; 2001 a. 109; 2005 a. 280; 2007 a. 96. ✓

SECTION 311. 940.45 (1) of the statutes is amended to read:

18 940.45 (1) Where the act is accompanied by force or violence or attempted force
19 or violence, upon the victim, or the spouse, child, stepchild, foster child, ~~treatment~~
20 ~~foster child,~~ parent, sibling, or grandchild of the victim, or any person sharing a
21 common domicile with the victim. ✓

22 **History:** 1981 c. 118; 1997 a. 143; 2001 a. 109; 2007 a. 96. ✓

SECTION 312. 943.011 (1) (a) of the statutes is amended to read:

1 943.011 (1) (a) "Family member" means a spouse, child, stepchild, foster child,
2 ~~treatment foster child~~, parent, sibling, or grandchild. ✓

3 **History:** 1997 a. 143; 2001 a. 109. X

SECTION 313. 943.013 (1) (a) of the statutes is amended to read:

4 943.013 (1) (a) "Family member" means a parent, spouse, sibling, child,
5 stepchild, ~~foster child~~ or ~~treatment foster child~~. ✓

6 **History:** 1993 a. 50, 446; 2001 a. 61, 109. X

SECTION 314. 943.015 (1) of the statutes is amended to read:

7 943.015 (1) In this section, "family member" means a parent, spouse, sibling,
8 child, stepchild, ~~foster child~~ or ~~treatment foster child~~. ✓

9 **History:** 1985 a. 29; 1993 a. 446; 2001 a. 109. X

SECTION 315. 943.017 (2m) (a) 1. of the statutes is amended to read:

10 943.017 (2m) (a) 1. "Family member" means a spouse, child, stepchild, foster
11 child, ~~treatment foster child~~, parent, sibling, or grandchild. ✓

12 **History:** 1995 a. 24; 1997 a. 35, 143; 2001 a. 16, 109. X

SECTION 316. 948.01 (3) of the statutes is amended to read:

13 948.01 (3) "Person responsible for the child's welfare" includes the child's
14 parent; stepparent; guardian; foster parent; ~~treatment foster parent~~; an employee of
15 a public or private residential home, institution, or agency; other person legally
16 responsible for the child's welfare in a residential setting; or a person employed by
17 one legally responsible for the child's welfare to exercise temporary control or care
18 for the child. ✓

19 **History:** 1987 a. 332; 1989 a. 31; 1993 a. 446; 1995 a. 27, 67, 69, 100, 214; 2001 a. 16; 2005 a. 273, 435; 2007 a. 96.

SECTION 317. 948.085 (1) of the statutes is amended to read:

20 948.085 (1) Has sexual contact or sexual intercourse with a child for whom the
21 actor is a foster parent or ~~treatment foster parent~~. ✓

22 **History:** 2005 a. 277; 2007 a. 97. X

SECTION 318. 949.06 (1m) (a) of the statutes is amended to read:

1 949.06 (1m) (a) In this subsection, "family member" means any spouse, parent,
2 grandparent, stepparent, child, stepchild, adopted child, grandchild, foster child,
3 ~~treatment foster child~~, brother, sister, half brother, half sister, aunt, uncle, nephew,
4 niece, or parent or sibling of spouse. ✓

5 History: 1975 c. 344, 421; 1977 c. 239; 1979 c. 198; 1981 c. 20, 314; 1985 a. 242; 1987 a. 27; 1993 a. 16, 446; 1997 a. 27, 39; 2003 a. 33; 2007 a. 20.

SECTION 319. 973.017 (6) (a) of the statutes is amended to read:

6 973.017 (6) (a) In this subsection, "person responsible for the welfare of the
7 child" includes the child's parent, stepparent, guardian, ~~foster parent~~, or ~~treatment~~
8 ~~foster parent~~; an employee of a public or private residential home, institution, or
9 agency; any other person legally responsible for the child's welfare in a residential
10 setting; or a person employed by one who is legally responsible for the child's welfare
11 to exercise temporary control or care for the child. ✓

History: 2001 a. 109; 2003 a. 321; 2005 a. 14, 277; 2007 a. 20, 96, 97, 116.

SECTION 9108. Nonstatutory provisions; Children and Families. ✓ (see 2x) ←

12 auto-ref from
p. 120,
line 2

13 (1) FOSTER CARE LEVELS OF CARE. ✓

January
December 31, 2009

14 (a) Transition. Notwithstanding section 48.62 (1) of the statutes, as affected
15 by this act, beginning on ~~July 1, 2010~~, a person who on ~~June 30, 2010~~, is licensed to
16 operate a treatment foster home under section 48.62 (1) (b), 2007 stats., is considered
17 to be licensed to operate a foster home under section 48.62 (1) of the statutes, as
18 affected by this act, for the remainder of the term of the treatment foster home license
19 under section 48.66 (1) (c), 2007 stats., or 48.75 (1r), 2007 stats., and a person who
20 on ~~June 30, 2010~~ is receiving kinship care payments under section 48.57 (3m), 2007
21 stats., or long-term kinship care payments under section 48.57 (3n), 2007 stats., for
22 the care and maintenance of a child is considered to be licensed to operate a foster
23 home under section 48.62 (1) of the statutes, as affected by this act, until the time
24 when the next review of the child's placement would have taken place under section

January

1 48.57 (3m) (d), 2007 stats., or 48.57 (3n) (d), 2007 stats. Beginning on ~~July~~ 1, 2010,
2 the department of children and families, the department of corrections, or a county
3 department of human or social services shall reimburse a person who under this
4 paragraph is considered to be licensed to operate a foster home at the appropriate
5 rate determined by that department or county department under the rules
6 promulgated by the department of children and families under section 48.62 (4) (c)
7 of the statutes, as affected by this act. ✓

8 (b) *Rules.* ✓

9 1. 'Permanent rules.' The department of children and families shall submit in
10 proposed form the rules required under section 48.62 (4) of the statutes, as affected
11 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
12 later than the first day of the 3rd month beginning after the effective date of this
13 subdivision. ✓

14 2. 'Emergency rules.' The department of children and families may promulgate
15 the rules required under section 48.62 (4) of the statutes, as affected by this act, as
16 emergency rules under section 227.24 of the statutes. Notwithstanding section
17 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this
18 subdivision remain in effect until the date on which the rules submitted under
19 subdivision 1. take effect. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of
20 the statutes, the department is not required to provide evidence that promulgating
21 a rule under this subdivision as an emergency rule is necessary for the preservation
22 of the public peace, health, safety, or welfare and is not required to provide a finding
23 of emergency for a rule promulgated under this subdivision. ✓

24 **SECTION 9408. Effective dates; Children and Families.** ✓

(See 12/18 e-mail)

January

LRB-0884/?
GMM.....
SECTION 9408

1 (1) FOSTER CARE LEVELS OF CARE. The [LPS generate catalog and cut and paste
2 here] of the statutes and SECTION 9108 (1) (a) of this act take effect on ~~July~~ July 1, 2010. ✓
3

auto-ref at p. 118, lines 13 + 14

(END)

D-note

2009-2010 DRAFTING INSERT
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(INSERT 9-11)

1 X
SECTION 1. 46.985 (1) (f) of the statutes is amended to read:

2 46.985 (1) (f) "Parent" means a parent, guardian, legal custodian, or a person
3 acting in the place of a parent, but does not include a foster parent, ~~treatment foster~~
4 ~~parent~~ or any other paid care provider.

History: 1985 a. 29, 120, 176; 1985 a. 182 s. 57; 1987 a. 27, 186; 1989 a. 31; 1993 a. 27, 446; 1995 a. 27; 1997 a. 27; 2001 a. 16; 2005 a. 25; 2007 a. 20.

(END OF INSERT)

(INSERT 10-15)

5 X
SECTION 2. 48.21 (5) (d) 2. of the statutes is amended to read:

6 48.21 (5) (d) 2. If a hearing is held under subd. 1., at least 10 days before the
7 date of the hearing the court shall notify the child, any parent, guardian, and legal
8 custodian of the child, and any foster parent, ~~treatment foster parent~~, or other
9 physical custodian described in s. 48.62 (2) of the child of the time, place, and purpose
10 of the hearing.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292; 2001 a. 16, 61, 109; 2005 a. 232; 2007 a. 20.

11 X
SECTION 3. 48.21 (5) (d) 3. of the statutes is amended to read:

12 48.21 (5) (d) 3. The court shall give a foster parent, ~~treatment foster parent~~, or
13 other physical custodian described in s. 48.62 (2) who is notified of a hearing under
14 subd. 2. an opportunity to be heard at the hearing by permitting the foster parent,
15 ~~treatment foster parent~~, or other physical custodian to make a written or oral
16 statement during the hearing, or to submit a written statement prior to the hearing,
17 relevant to the issues to be determined at the hearing. A foster parent, ~~treatment~~
18 ~~foster parent~~, or other physical custodian who receives a notice of a hearing under
19 subd. 2. and an opportunity to be heard under this subdivision does not become a

1 party to the proceeding on which the hearing is held solely on the basis of receiving
2 that notice and opportunity to be heard.

History: 1977 c. 354, 447; 1979 c. 300; 1983 a. 399; 1985 a. 311; 1993 a. 98; 1995 a. 27, 77, 275; 1997 a. 35, 237, 292; 2001 a. 16, 61, 109; 2005 a. 232; 2007 a. 20.
(END OF INSERT)

(INSERT 39-10)

3 **SECTION 4.** ^X 48.61 (3) of the statutes is amended to read:

4 48.61 (3) To provide appropriate care and training for children in its legal or
5 physical custody and, if licensed to do so, to place children in licensed foster homes,
6 ~~licensed treatment foster homes,~~ and licensed group homes and in the homes of
7 guardians under s. 48.977 (2).

History: 1977 c. 354 s. 101; 1977 c. 418, 449; 1979 c. 300; 1991 a. 316; 1993 a. 446; 1999 a. 83; 2005 a. 25.
(END OF INSERT)

(INSERT 39-23)

8 **SECTION 5.** ^X 48.619 of the statutes is amended to read:

9 **48.619 Definition.** In this subchapter, "child" means a person under 18 years
10 of age and also includes, for purposes of counting the number of children for whom
11 a foster home, ~~treatment foster home,~~ or group home may provide care and
12 maintenance, a person 18 years of age or over, but under 19 years of age, who is a
13 full-time student at a secondary school or its vocational or technical equivalent, who
14 is reasonably expected to complete the program before reaching 19 years of age, who
15 was residing in the foster home, ~~treatment foster home,~~ or group home immediately
16 prior to his or her 18th birthday, and who continues to reside in that foster home,
17 ~~treatment foster home,~~ or group home.

History: 2001 a. 69.

(END OF INSERT)

(INSERT 45-9)

1 X
SECTION 6. 48.625 (3) of the statutes is amended to read:

2 48.625 (3) This section does not apply to a foster home licensed under s. 48.62

3 (1) ~~(a) or to a treatment foster home licensed under s. 48.62 (1) (b).~~

History: 1977 c. 418; 1985 a. 281; 1991 a. 39; 1993 a. 395, 446; 1995 a. 27; 1997 a. 27; 2001 a. 69.

(END OF INSERT)

(INSERT 53-2)

4 X
SECTION 7. 48.64 (2) of the statutes is amended to read:

5 48.64 (2) SUPERVISION OF FOSTER HOME, ~~TREATMENT FOSTER HOME~~ AND GROUP HOME

6 PLACEMENTS. Every child in a foster home, ~~treatment foster home~~ or group home shall

7 be under the supervision of an agency.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 418, 447, 449; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1989 a. 31, 107; 1993 a. 395, 446, 491; 1995 a. 27 ss. 2595, 9126 (19); 1997 a. 104; 2001 a. 69; 2005 a. 293; 2007 a. 20.

(END OF INSERT)

(INSERT 56-15)

8 X
SECTION 8. 48.645 (2) (a) 4. of the statutes is amended to read:

9 48.645 (2) (a) 4. A licensed foster home, ~~treatment foster home~~, group home,

10 or residential care center for children and youth or a subsidized guardianship home

11 when the child is in the custody or guardianship of the state, when the child is a ward

12 of an American Indian tribal court in this state and the placement is made under an

13 agreement between the department and the tribal governing body, or when the child

14 was part of the state's direct service case load and was removed from the home of a

15 relative as a result of a judicial determination that continuance in the home of a

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

History: 2007 a. 20 ss. 894 to 903; Stats. 2007 s. 48.645; 2007 a. 97 s. 61.

(END OF INSERT)

(INSERT 80-17)

3 **SECTION 9.** 50.01 (1) (a) 1. of the statutes is amended to read:

4 50.01 (1) (a) 1. Care and maintenance above the level of room and board but
5 not including nursing care are provided in the private residence by the care provider
6 whose primary domicile is this residence for 3 or 4 adults, or more adults if all of the
7 adults are siblings, each of whom has a developmental disability, as defined in s.
8 51.01 (5), or, if the residence is licensed as a foster home, care and maintenance are
9 provided to children, the combined total of adults and children so served being no
10 more than 4, or more adults or children if all of the adults or all of the children are
11 siblings, ~~or, if the residence is licensed as a treatment foster home, care and~~
12 ~~maintenance are provided to children, the combined total of adults and children so~~
13 ~~served being no more than 4.~~

History: 1975 c. 413; 1977 c. 170, 418; 1979 c. 111; 1983 a. 189 s. 329 (18); 1985 a. 29, 276; 1985 a. 332 s. 251 (1); 1987 a. 127, 161; 1989 a. 31, 136, 199; 1991 a. 39; 1993 a. 327, 446, 491; 1995 a. 27; 1997 a. 13, 27, 156, 237; 1999 a. 22, 32; 2001 a. 74, 107; 2003 a. 33; 2005 a. 187; 2007 a. 20, 153.

(END OF INSERT)

(INSERT 99-15)

14 **SECTION 10.** 938.299 (1) (ag) of the statutes is amended to read:

15 938.299 (1) (ag) If a public hearing is not held, in addition to persons permitted
16 to attend under par. (a), the juvenile's foster parent, ~~treatment foster parent~~ or other
17 physical custodian described in s. 48.62 (2) may be present, except that the court may
18 exclude a foster parent, ~~treatment foster parent~~ or other physical custodian
19 described in s. 48.62 (2) from any portion of the hearing if that portion of the hearing

1 deals with sensitive personal information of the juvenile or the juvenile's family or
2 if the court determines that excluding the foster parent, ~~treatment foster parent~~ or
3 other physical custodian would be in the best interests of the juvenile.

History: 1995 a. 77, 275, 352; 1997 a. 35, 205, 252, 296; 1999 a. 32, 188; 2001 a. 16; 2003 a. 284, 326; 2005 a. 277, 344; 2005 a. 443 s. 265; 2007 a. 97.
(END OF INSERT)

(INSERT 113-2)

4 **SECTION 11.** ^X 938.38 (5m) (b) of the statutes is amended to read:

5 938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court
6 shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; the
7 juvenile's foster parent ~~or treatment foster parent~~, the operator of the facility in
8 which the juvenile is living, or the relative with whom the juvenile is living; the
9 juvenile's counsel, and the juvenile's guardian ad litem; the agency that prepared the
10 permanency plan; and the person representing the interests of the public of the date,
11 time, and place of the hearing.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97.
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No 10 of sections

AN ACT to repeal 48.02 (17q), 48.40 (1m), 48.48 (17) (a) 10., 48.57 (3m), 48.57 (3n), 48.57 (3p), 48.57 (3t), 48.62 (1) (b), 49.001 (7), 49.155 (1m) (c) 1h., 49.46 (1) (a) 16., 50.065 (1) (c) 2., 619.01 (1) (c) 4m., 619.01 (9m), 767.57 (1m) (cm), 895.485 (1) (c), and 938.02 (17q) *of the statutes* **to renumber** 48.62 (1) (a) *the renumbering of section* **to renumber and** *of the statutes* **amend** 48.62 (4) *of the statutes* **to amend** 20.410 (3) (ho), 20.437 (1) (b), 20.437 (1) (cf), 20.437 (1) (dd), 20.437 (1) (kc), 20.437 (1) (kd), 20.437 (1) (pd), 20.437 (2) (jm), 20.437 (2) (r), 46.10 (14) (a), 46.10 (14) (b), 46.21 (2) (j), 46.56 (8) (L), 46.56 (15) (b) 4., 46.985 (1) (f), 48.01 (1) (gg), 48.02 (6), 48.195 (2) (d) 5., 48.207 (1) (c), 48.207 (1) (f), 48.207 (3), 48.21 (5) (d) 2., 48.21 (5) (d) 3., 48.27 (3) (a) 1., 48.27 (3) (a) 1m., 48.27 (3) (a) 2., 48.27 (6), 48.299 (1) (ag), 48.299 (1) (ar), 48.32 (1) (c) 2., 48.32 (1) (c) 3., 48.33 (4) (intro.), 48.33 (5), 48.335 (3g) (intro.), 48.345 (3) (c), 48.355 (2) (b) 2., 48.355 (2d) (c) 2., 48.355 (2d) (c) 3., 48.355 (4), 48.357 (1) (am) 1., 48.357 (2m) (b), 48.357 (2r), 48.357 (2v) (c) 2., 48.357 (2v) (c) 3., 48.363 (1) (b), 48.363 (1m), 48.365 (2), 48.365 (2m) (ad) 2., 48.365 (2m) (ag), 48.371 (1) (intro.), 48.371 (1) (a), 48.371 (3) (intro.), 48.371 (3) (d), 48.371 (5), 48.375 (4) (a) 1., 48.375 (4) (b) 1m., 48.375 (4) (b) 3., 48.375 (7) (f), 48.38 (2) (intro.), 48.38 (2) (g), 48.38 (4) (d) (intro.), 48.38 (4) (f) (intro.), 48.38 (5) (b), 48.38 (5) (e), 48.38 (5m) (b), 48.38 (5m) (c), 48.38 (5m) (e), 48.42 (2) (d), 48.42 (2g) (a), 48.42 (2g) (am), 48.42 (2g) (b), 48.427 (1m), 48.427 (3m) (a) 5., 48.427 (3m) (am), 48.428 (2) (a), 48.428 (2) (b), 48.428 (4), 48.43 (5) (b), 48.43 (5m), 48.48 (9), 48.48 (17) (a) 3., 48.48 (17) (a) 8., 48.48 (17) (c) 4., 48.481 (1) (a), 48.52 (1) (a), 48.52 (1) (b), 48.52 (1) (c), 48.569 (1) (d), 48.57 (1) (c), 48.57 (1) (hm), 48.57 (1) (i), 48.57 (3) (a) 4., 48.60 (2) (e), 48.61 (3), 48.61 (7), 48.615 (1) (b), subchapter XIV (title) of chapter 48 [precedes

the renumbering and amendment of section

48.619], 48.619, 48.62 (title), 48.62 (2), 48.62 (3), 48.62 (5) (a) (intro.), 48.62 (5) (c) 2., 48.62 (5) (d), 48.62 (5) (e), 48.62 (6), 48.62 (7), 48.625 (3), 48.627 (title), 48.627 (2) (a), 48.627 (2c), 48.627 (2m), 48.627 (2s) (a), 48.627 (2s) (b), 48.627 (3) (b), 48.627 (3) (d), 48.627 (3) (e), 48.627 (3) (f), 48.627 (3) (h), 48.627 (4), 48.627 (5), 48.63 (1), 48.63 (3) (b) 2., 48.63 (4), 48.64 (title), 48.64 (1), 48.64 (1m), 48.64 (1r), 48.64 (2), 48.64 (4) (a), 48.64 (4) (c), 48.645 (1) (a), 48.645 (2) (a) 1., 48.645 (2) (a) 3., 48.645 (2) (a) 4., 48.645 (2) (b), subchapter XVI (title) of chapter 48 [precedes 48.66], 48.66 (1) (a), 48.66 (1) (c), 48.67 (intro.), 48.675 (1), 48.675 (2), 48.675 (3) (intro.), 48.675 (3) (a), 48.68 (1), 48.685 (1) (b), 48.685 (2) (c) 1., 48.685 (2) (c) 2., 48.685 (4m) (a) (intro.), 48.685 (4m) (ad), 48.685 (5) (bm) (intro.), 48.685 (5m), 48.685 (6) (a), 48.70 (2), 48.73, 48.75 (title), 48.75 (1d), 48.75 (1r), 48.75 (2), 48.833 (1), 48.833 (2), 48.837 (1), 48.837 (1r) (b), 48.88 (2) (am) 1., 48.88 (2) (am) 2., 48.975 (3) (a) 1., 48.975 (3) (a) 2., 48.98 (1), 48.98 (2) (a), 48.981 (3) (d) 1., 48.981 (7) (a) 4., 48.986 (4), 49.136 (1) (m), 49.155 (1) (c), 49.155 (1m) (a) (intro.), 49.155 (1m) (a) 1m. b., 49.155 (1m) (bm), 49.155 (1m) (c) 1. (intro.), 49.175 (1) (ze) 1., 49.19 (1) (a) 2. b., 49.19 (4e) (a), 49.19 (10) (a), 49.19 (10) (c), 49.19 (10) (d), 49.19 (10) (e), 49.22 (6), 49.22 (7m), 49.32 (9) (a), 49.34 (1), 49.345 (14) (a), 49.345 (14) (b), 49.45 (3) (e) 7., 49.46 (1) (a) 5., 49.46 (1) (d) 1., 49.471 (4) (a) 5., 49.96, 50.01 (1) (a) 1., 50.01 (1) (a) 2., 59.69 (15) (intro.), 59.69 (15) (bm), 60.63 (intro.), 60.63 (3), 62.23 (7) (i) (intro.), 62.23 (7) (i) 2m., 103.10 (1) (a) (intro.), 103.10 (1) (f), 118.175 (1), 121.79 (1) (d) (intro.), 121.79 (1) (d) 2., 121.79 (1) (d) 3., 146.82 (2) (a) 18m., 167.10 (7), 252.15 (5) (a) 19., 253.10 (3) (c) 2. c., 301.12 (14) (a), 301.12 (14) (b), 301.26 (4) (d) 2., 301.26 (4) (d) 3., 301.26 (4) (e), 301.26 (4) (ed), 301.46 (4) (a) 6., 343.15 (4) (a) 3., 619.01 (1) (a), 619.01 (1) (c) 1., 619.01 (9), 767.205 (2) (a) 3., 767.205 (2) (a) 4., 767.407

(1) (c) 1., 767.41 (3) (c), 767.521 (intro.), 767.55 (3) (a) 2., 767.57 (2), 767.57 (4), 767.59 (1c) (a) (intro.), 767.87 (6) (a), 767.87 (6) (b), 786.37 (3), 809.105 (13), 895.485 (title), 895.485 (2) (intro.), 895.485 (2) (a), 895.485 (2) (b), 895.485 (3), 895.485 (4) (intro.), 895.485 (4) (a), 938.02 (6), 938.207 (1) (c), 938.207 (1) (f), 938.21 (5) (d) 2., 938.21 (5) (d) 3., 938.27 (3) (a) 1., 938.27 (3) (a) 1m., 938.27 (3) (a) 2., 938.27 (6), 938.299 (1) (ag), 938.32 (1) (d) 2., 938.32 (1) (d) 3., 938.33 (4) (intro.), 938.33 (5), 938.335 (3g) (intro.), 938.34 (3) (c), 938.355 (2) (b) 2., 938.355 (2d) (c) 2., 938.355 (2d) (c) 3., 938.355 (4) (a), 938.357 (1) (am) 1., 938.357 (1) (am) 2., 938.357 (2m) (b), 938.357 (2r), 938.357 (2v) (c) 2., 938.357 (2v) (c) 3., 938.357 (6), 938.363 (1) (b), 938.363 (1m), 938.365 (2), 938.365 (2m) (ad) 2., 938.365 (2m) (ag), 938.365 (5), 938.371 (1) (intro.), 938.371 (1) (a), 938.371 (3) (intro.), 938.371 (3) (d), 938.38 (2) (intro.), 938.38 (4) (f) (intro.) of the statutes, 938.38 (5) (b), 938.38 (5) (e), 938.38 (5m) (b), 938.38 (5m) (c), 938.38 (5m) (e), 938.48 (4), 938.52 (1) (b), 938.538 (3) (a) 1p., 938.57 (1) (c), 938.57 (3) (a) 4., 940.201 (1) (a), 940.203 (1) (a), 940.205 (1), 940.207 (1), 940.43 (1), 940.45 (1), 943.011 (1) (a), 943.013 (1) (a), 943.015 (1), 943.017 (2m) (a) 1., 948.01 (3), 948.085 (1), 949.06 (1m) (a) and 973.017 (6) (a) ^{of the statutes} and **to create** 48.62 (4) (intro.), 48.62 (4) (a), 48.62 (4) (b) and 48.62 (4) (d) ^{the creation of section} of the statutes; relating to: the budget.

Inset 87-9

X
Section #. 301.26 (4) (d) 2. of the statutes is amended to read:

January 1, 2010 2010

301.26 (4) (d) 2. Beginning on ~~July 1, 2007~~, and ending on June 30, ~~2008~~, the per person daily cost assessment to counties shall be \$259 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), \$259 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), \$277 for care in a residential care center for children and youth, \$165 for care in a group home for children, ~~\$67 for care in a foster home, \$132 for care in a treatment foster home,~~ \$99 for departmental corrective sanctions services, and \$35 for departmental aftercare services.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97.

the amount determined by
the department of children
and families under the
rules promulgated under
s. 48.62 (4)(c)

(edit in)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0884/1dn

GMM.....

g Lbjk

Date

January

Cory:

The DCF Budget Issue Paper, at page 13, contemplates additional IV-E revenue for kinship care placements beginning to materialize in state fiscal year 2010-11, which means that kinship care relatives will need to be converted to foster parents during that fiscal year. Accordingly, this draft provides for an effective date of July 1, 2010. ✓

The Issue Paper, however, at page 7, indicates that "the revision of licensing standards would be an involved process, taking possibly up to several years." ✓

Because implementation of the levels of care system, including moving kinship care relatives into that system, is contingent on DCF promulgating rules defining those levels of care and the counties being trained in the new system, I question whether a July 1, 2010, effective date is realistic, especially when according to the Issue Paper the policy position that will be modifying the administrative rules does not start until October 1, 2009, and the regional coordinators who will be training the county people do not start until January 1, 2010. ✓

If the DCF people think they can get the rules promulgated and the kinship care relatives converted to foster parents by July 1, 2010, then the effective date and the estimated IV-E revenues for fiscal year 2010-2011 are fine. If, however, those rules cannot be promulgated and those kinship care relatives cannot be converted to foster parents by July 1, 2010, then a later effective date and a later estimate for the materialization of IV-E revenue will be necessary. ✓

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

January

January

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0884/1dn
GMM:bjk:rs

December 19, 2008

Cory:

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Because implementation of the levels of care system, including moving kinship care relatives into that system, is contingent on DCF promulgating rules defining those levels of care and the counties being trained in the new system, I question whether a January 1, 2010, effective date is realistic, especially when according to the Issue Paper the policy position that will be modifying the administrative rules does not start until October 1, 2009, and the regional coordinators who will be training the county people do not start until January 1, 2010.

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

Malaise, Gordon

From: Stinebrink, Cory R - DOA [Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 1:57 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

To recap our conversation just now:

To reconcile the conflicting items in the graduated licensing draft with the foster care rate increase and the juvenile corrections daily rate drafts, we want to aim for the following:

- ✓ ● Have juvenile corrections dealt with separate from the graduated licensing. Have rates specific to those cases, independent of what DCF has for foster care.
- 1338 ● Increase the foster care rate by 5% on Jan. 1 2010 and 2011. This rate would serve as the minimum payment for level 2 of the graduated licensing system as described in the DCF issue paper. Total payment would be determined by rule-making process.
- ✓ ● Level 1 of the graduated licensing system will still be the equivalent of kinship care, \$215 monthly payment that is TANF funded. They would be licensed as foster parents, but would receive what is now the kinship payment.

Any further questions, I'll be happy to answer (Or try to answer) them.

Cory

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 11:53 AM
To: Stinebrink, Cory R - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Cory:

I know exactly what you are talking about. You are talking about reconciliations of conflicting provisions. Later next week after the LRB compiles all of the individual drafts into one master budget draft we dedicate a couple of days to reconciling conflicting provisions such as the ones you are noting, that is, provisions that are treated in two or more individual drafts. Most of the time there is no conflict and both treatments can be given effect. Other times there is a conflict and we must determine which treatment will override.

This case is actually an easy one. The repeal will override the title change, so what the LRB will do at the reconciliation stage is exactly as you say--we will remove the title change from the graduated foster draft so that the repeal in the TANF draft will stand.

Now, speaking of reconciliations, I have another one for you that isn't so easy to reconcile. Specifically, the graduated foster care draft, LRB-0884, amends s. 48.62 (4) to delete the statutory foster rates and instead requires DCF to promulgate the graduated rates by rule. Another draft, LRB-1338, however, increases the statutory foster care rates. Obviously, these two treatments directly contradict one another and cannot be reconciled mechanically. So, one must be in and the other must be out or perhaps the implementation of the graduated system could be delayed, but as is you've got a conflict.

A similar conflict also exists between the graduated foster care draft and Karina's juvenile corrections daily rates draft, LRB-0357. Specifically, -0884 amends s. 301.26 (4) (d) 2. and 3. to provide that the foster care rate for juvenile corrections is the graduated rate determined by DCF, while -0357 provides for statutory rates for juvenile corrections foster care. Again, these treatments are in direct conflict and cannot be reconciled mechanically. Thus, a decision must be made as to which treatment will override.

So, in order to accomplish these reconciliations I'll need a decision from you as to which treatment overrides.

01/23/2009

Better to start thinking about it now than to shoot from the hip under pressure a week from now.

Gordon

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 11:30 AM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Gordon-

In reference to this draft on Graduated foster care licensing system, I assume this will all become apparent, there is a change in the title for s.437(1)(kc) and s.437(1)(kd). These two appropriations are being repealed by a TANF-related draft, 0317-P1. I wasn't sure if this would matter any and that the changes made to those appropriations in this draft wouldn't matter, or if they had to be removed from this draft for consistency with the other one. If that didn't make any sense at all give me a call, because I tried to ask this of a more senior analyst and we spent about 20 minutes before I was able to accurately communicate what I was asking.

Thanks,
Cory

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Friday, December 19, 2008 1:31 PM
To: Stinebrink, Cory R - DOA
Cc: Hanle, Bob - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-0884/1 Graduated foster care licensing system

Following is the PDF version of draft 09-0884/1.

Malaise, Gordon

From: Malaise, Gordon
Sent: Friday, January 23, 2009 5:20 PM
To: Stinebrink, Cory R - DOA
Cc: Silver, Karina B - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Cory:

Yes, I think that DOC still needs to distinguish basic foster care and treatment foster care rather than mush them together. The term "treatment foster care," however, will no longer work because that definition will have been deleted from the statutes. So, maybe the DOC statutes can refer to a "basic foster home" and a "higher-level foster home under rules promulgated by DCF . . .".

We have to be more generic in the statutes than referring specifically to level 1, level 2, etc., because those terms are not defined in the statutes. Indeed, they're not even defined in the rules yet and a reference in a policy proposal paper doesn't cut it for a statutory reference.

Gordon

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 5:04 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Gordon-

We're going to be discussing this with DOC on Monday, but we were discussing the possibility and wondering if there is a way to reference the rules that DCF will establish under their graduated licensing. So, the grad licensing draft combines foster care and treatment foster care licensing standards into simply foster care. The proposal by DCF was to establish 5 levels via the rule-making process. Levels 1 & 2 would be defined as foster care. Levels 3-5 as varying levels of treatment foster care. Would it be possible in Karina's draft to have 2 different rates: 1 would link a rate to Levels 1 & 2 as defined by DCF and the other would link a rate to levels 3-5 in DCF?

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 4:13 PM
To: Silver, Karina B - DOA
Cc: Stinebrink, Cory R - DOA
Subject: FW: LRB Draft: 09-0884/1 Graduated foster care licensing system

Karina:

Due to Cory's draft on graduated foster care licensing, as of January 1, 2010, "treatment foster homes" will no longer exist as a separate licensing category and, therefore, you will no longer have a separate rate for those homes in s. 301.26 (4) (d) 2. and 3. Accordingly, you will have to figure out how to average the treatment foster rate into the foster rate for DOC foster care provided on and after that date and let me know so that I can redraft - 0357 accordingly.

Gordon

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 1:57 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

To recap our conversation just now:

To reconcile the conflicting items in the graduated licensing draft with the foster care rate increase and the juvenile corrections daily rate drafts, we want to aim for the following:

- Have juvenile corrections dealt with separate from the graduated licensing. Have rates specific to those cases, independent of what DCF has for foster care.
- Increase the foster care rate by 5% on Jan. 1 2010 and 2011. This rate would serve as the minimum payment for level 2 of the graduated licensing system as described in the DCF issue paper. Total payment would be determined by rule-making process.
- Level 1 of the graduated licensing system will still be the equivalent of kinship care, \$215 monthly payment that is TANF funded. They would be licensed as foster parents, but would receive what is now the kinship payment.

Any further questions, I'll be happy to answer (Or try to answer) them.

Cory

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Sent: Friday, January 23, 2009 11:53 AM
To: Stinebrink, Cory R - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Cory:

I know exactly what you are talking about. You are talking about reconciliations of conflicting provisions. Later next week after the LRB compiles all of the individual drafts into one master budget draft we dedicate a couple of days to reconciling conflicting provisions such as the ones you are noting, that is, provisions that are treated in two or more individual drafts. Most of the time there is no conflict and both treatments can be given effect. Other times there is a conflict and we must determine which treatment will override.

This case is actually an easy one. The repeal will override the title change, so what the LRB will do at the reconciliation stage is exactly as you say--we will remove the title change from the graduated foster draft so that the repeal in the TANF draft will stand.

Now, speaking of reconciliations, I have another one for you that isn't so easy to reconcile. Specifically, the graduated foster care draft, LRB-0884, amends s. 48.62 (4) to delete the statutory foster rates and instead requires DCF to promulgate the graduated rates by rule. Another draft, LRB-1338, however, increases the statutory foster care rates. Obviously, these two treatments directly contradict one another and cannot be reconciled mechanically. So, one must be in and the other must be out or perhaps the implementation of the graduated system could be delayed, but as is you've got a conflict.

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So, in order to accomplish these reconciliations I'll need a decision from you as to which treatment overrides. Better to start thinking about it now than to shoot from the hip under pressure a week from now.

Gordon

01/23/2009

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 11:30 AM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Gordon-

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Thanks,
Cory

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Friday, December 19, 2008 1:31 PM
To: Stinebrink, Cory R - DOA
Cc: Hanle, Bob - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-0884/1 Graduated foster care licensing system

Following is the PDF version of draft 09-0884/1.

Malaise, Gordon

From: Malaise, Gordon
Sent: Friday, January 23, 2009 6:26 PM
To: Stinebrink, Cory R - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

On the other hand, on further review, I see that the policy paper uses "treatment" to describe Levels 3 to 5. If DCF remains consistent when they draft the rules, then maybe we can use "treatment" and trust that that's what the rules will say. Also, if we insert in the DOC statute "treatment . . . as defined by rules," that would negate an argument that it is a drafting error because the insertion of "as defined by rules" would show that it was a conscious decision and not an error or oversight.

I'm out of here now. We'll be in touch.

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 6:18 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Sounds reasonable. If that works then that's what we'll go with then. We'll have more clarity on it from our end come Monday, I think, and we won't hesitate to let you know.

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 6:15 PM
To: Stinebrink, Cory R - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

I sort of think we have to stick with the generic "basic" and "higher-level" for now because until we know for sure exactly what terms DCF is defining by rule we have to keep it generic. I think a person reading the statute would be able to intuit that "basic" refers to the lower level defined by DCF and "higher-level" refers to the levels defined by DCF that are higher than basic. If DCF defines those higher levels as "treatment," "higher-level" would still work because treatment is higher than basic.

If we knew for sure that DCF is going to use the term "treatment," then maybe we could say "treatment . . . as defined by rule," but I don't know if that's what they are going to do. If we use the term "treatment," and DCF does not define that term in the rules, then we've got a problem, so that's why I think the more generic "higher-level" is what we should use. Moreover, if we leave "treatment foster homes" in the DOC statute, someone might argue that it was a drafting error in that the term is removed everywhere else in the statutes.

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 5:46 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Yeah, the generic level 1 stuff was more me trying to explain my train of thought.

If it works and would be appropriate to have the "basic foster home" and a "higher-level foster home under rules promulgated by DCF . . ." then we'd be fine with that. Would DCF then have to clearly define in rule what "basic foster home" and "higher level foster home" would be? Would there be a problem if in DOC statutes there is a reference to DCF rules for "higher-level foster home" when in DCF rule they're actually defined as treatment foster home? I know that "treatment foster home" is no longer defined in statute, but couldn't it be re-defined under

DOC statutes the same way that "higher-level foster home" would be?

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 5:20 PM
To: Stinebrink, Cory R - DOA
Cc: Silver, Karina B - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Cory:

Yes, I think that DOC still needs to distinguish basic foster care and treatment foster care rather than mush them together. The term "treatment foster care," however, will no longer work because that definition will have been deleted from the statutes. So, maybe the DOC statutes can refer to a "basic foster home" and a "higher-level foster home under rules promulgated by DCF . . .".

We have to be more generic in the statutes than referring specifically to level 1, level 2, etc., because those terms are not defined in the statutes. Indeed, they're not even defined in the rules yet and a reference in a policy proposal paper doesn't cut it for a statutory reference.

Gordon

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 5:04 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Gordon-

We're going to be discussing this with DOC on Monday, but we were discussing the possibility and wondering if there is a way to reference the rules that DCF will establish under their graduated licensing. So, the grad licensing draft combines foster care and treatment foster care licensing standards into simply foster care. The proposal by DCF was to establish 5 levels via the rule-making process. Levels 1 & 2 would be defined as foster care. Levels 3-5 as varying levels of treatment foster care. Would it be possible in Karina's draft to have 2 different rates: 1 would link a rate to Levels 1 & 2 as defined by DCF and the other would link a rate to levels 3-5 in DCF?

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 4:13 PM
To: Silver, Karina B - DOA
Cc: Stinebrink, Cory R - DOA
Subject: FW: LRB Draft: 09-0884/1 Graduated foster care licensing system

Karina:

Due to Cory's draft on graduated foster care licensing, as of January 1, 2010, "treatment foster homes" will no longer exist as a separate licensing category and, therefore, you will no longer have a separate rate for those homes in s. 301.26 (4) (d) 2. and 3. Accordingly, you will have to figure out how to average the treatment foster rate into the foster rate for DOC foster care provided on and after that date and let me know so that I can redraft - 0357 accordingly.

Gordon

01/30/2009

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 1:57 PM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

To recap our conversation just now:

To reconcile the conflicting items in the graduated licensing draft with the foster care rate increase and the juvenile corrections daily rate drafts, we want to aim for the following:

- Have juvenile corrections dealt with separate from the graduated licensing. Have rates specific to those cases, independent of what DCF has for foster care.
- Increase the foster care rate by 5% on Jan. 1 2010 and 2011. This rate would serve as the minimum payment for level 2 of the graduated licensing system as described in the DCF issue paper. Total payment would be determined by rule-making process.
- Level 1 of the graduated licensing system will still be the equivalent of kinship care, \$215 monthly payment that is TANF funded. They would be licensed as foster parents, but would receive what is now the kinship payment.

Any further questions, I'll be happy to answer (Or try to answer) them.

Cory

From: Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 11:53 AM
To: Stinebrink, Cory R - DOA
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Cory:

I know exactly what you are talking about. You are talking about reconciliations of conflicting provisions. Later next week after the LRB compiles all of the individual drafts into one master budget draft we dedicate a couple of days to reconciling conflicting provisions such as the ones you are noting, that is, provisions that are treated in two or more individual drafts. Most of the time there is no conflict and both treatments can be given effect. Other times there is a conflict and we must determine which treatment will override.

This case is actually an easy one. The repeal will override the title change, so what the LRB will do at the reconciliation stage is exactly as you say--we will remove the title change from the graduated foster draft so that the repeal in the TANF draft will stand.

Now, speaking of reconciliations, I have another one for you that isn't so easy to reconcile. Specifically, the graduated foster care draft, LRB-0884, amends s. 48.62 (4) to delete the statutory foster rates and instead requires DCF to promulgate the graduated rates by rule. Another draft, LRB-1338, however, increases the statutory foster care rates. Obviously, these two treatments directly contradict one another and cannot be reconciled mechanically. So, one must be in and the other must be out or perhaps the implementation of the graduated system could be delayed, but as is you've got a conflict.

A similar conflict also exists between the graduated foster care draft and Karina's juvenile corrections daily rates draft, LRB-0357. Specifically, -0884 amends s. 301.26 (4) (d) 2. and 3. to provide that the foster care rate for juvenile corrections is the graduated rate determined by DCF, while -0357 provides for statutory rates for juvenile corrections foster care. Again, these treatments are in direct conflict and cannot be reconciled mechanically. Thus, a decision must be made as to which treatment will override.

So, in order to accomplish these reconciliations I'll need a decision from you as to which treatment overrides. Better to start thinking about it now than to shoot from the hip under pressure a week from now.

Gordon

01/30/2009

From: Stinebrink, Cory R - DOA [mailto:Cory.Stinebrink@wisconsin.gov]
Sent: Friday, January 23, 2009 11:30 AM
To: Malaise, Gordon
Subject: RE: LRB Draft: 09-0884/1 Graduated foster care licensing system

Gordon-

In reference to this draft on Graduated foster care licensing system, I assume this will all become apparent, there is a change in the title for s.437(1)(kc) and s.437(1)(kd). These two appropriations are being repealed by a TANF-related draft, 0317-P1. I wasn't sure if this would matter any and that the changes made to those appropriations in this draft wouldn't matter, or if they had to be removed from this draft for consistency with the other one. If that didn't make any sense at all give me a call, because I tried to ask this of a more senior analyst and we spent about 20 minutes before I was able to accurately communicate what I was asking.

Thanks,
Cory

From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Friday, December 19, 2008 1:31 PM
To: Stinebrink, Cory R - DOA
Cc: Hanle, Bob - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-0884/1 Graduated foster care licensing system

Following is the PDF version of draft 09-0884/1.

Malaise, Gordon

From: Stinebrink, Cory R - DOA [Cory.Stinebrink@wisconsin.gov]
Sent: Saturday, January 24, 2009 3:37 PM
To: Malaise, Gordon
Subject: FW: Graduated Licensing
Attachments: Comparison of Crimes Cover Letter.doc; Comparison of Crimes.doc

Gordon-

I had shared the draft for graduated licenses with folks over at DCF. The comments they had on it were below. I looked through them, as did my team leader, and we think most of the changes sound reasonable, except possibly the one affecting section 87. Also, re section 227, is there a way to amend the draft to prevent formerly kinship care kids from being eligible DPI for tuition aid? - only if home tax exempt 70.11 121.79(1)(d)2

From: Tuohy, John O - DCF
Sent: Friday, January 23, 2009 9:10 PM
To: Stinebrink, Cory R - DOA
Cc: Nikolay, Robert A - DCF
Subject: Re: Graduated Licensing

Hi Cory – Lots of comments on this draft as the issues are very complex. There is a significant problem with criminal background checks for kinship care relatives – see in **BOLD**. Many of these comments do not require changes to the draft, but are to note impacts of the graduated licensing system. Comments that LRB needs to address are highlighted in BLUE.

General comments:

1) DCF recommends that there be a single foster care license and that once licensed, parents be “certified” to provide a particular level of care. This would meet the federal criteria that a person be licensed to qualify for IV-E reimbursement and create a clear basis for the levels of care without DCF or counties having to reissue licenses. Persons would be licensed for a two year period like they are now, but their level or certification could be changed in the middle of a licensing period without having to issue a new license. The licensing period for when the license is in effect gets scrutinized in federal IV-E reviews and we want to ensure we don't create any complications by having to issue more new licenses versus just changing the certification level.

2) By licensing the court-order kinship care providers, this provides additional rights or protections to the kinship provider and child that they don't have now as kinship placements by giving them all the rights and protections applicable to a foster parent or child. While this is what DCF wants, there are a lot of impacts outside the child welfare program as a result. The comments below identify these impacts. Responsibilities or programs of DOA, DOC, DOJ, and OCI may be affected by this bill, so we may want to provide them advance notice of this proposal being in the budget bill.

Specific Comments:

Section 17, p. 9: In the definition of foster home, it specifies that the limit is four children unless there are siblings that need to be kept together then the limit is 6 children per foster home. This current exception of up to 6 children for sibling groups does not apply to treatment foster homes, but will apply to all levels of foster homes under the new structure. The existing language regarding authority to issue rules should allow DCF to manage having different limits for the higher levels of care. So we think the draft is OK, and this comment is more of a reminder to us to address the limit as part of the revised rules.

Section 77-79, pp. 32-33: These sections modify the provisions relating to sustaining care. Currently sustaining care is allows for licensed foster parents and kinship care relatives, provided the child has resided there for 6

01/24/2009

months. The draft amends the language to allow licensed foster parents (including court-ordered kinship care as the first level of care) and ANY relative to qualify for sustaining care. This unintentionally expands the scope of sustaining care. The term "kinship care relative" should continue to be used to maintain the current sustaining care policy. = delete "relative"

Section 86, pp.34-35; section 95, p.37; and section 317, p.111: DCF and counties will be required to pay for kids turning 18 to complete high school who are living in a formerly kinship care home. This will have a minor fiscal effect.

Section 87, p 35: s.48.481(1) is the statutory authority for the Foster Care Continuation program which allows DCF to give funds to counties to continue foster care payments for children with special needs. These children essentially transition from child foster care to adult foster care and can remain in the same home if the provider gets licensed by the county as an adult family home. While DCF did not request modifications to this provision as part of the original drafting request, as long as the section is being amended there are some fixes that we would like made to give DCF more flexibility with the Foster Care Continuation funds. These fixes include:

- Delete reference to "after 1986" in line 7. The 1986 date is no longer needed.
- Delete reference to living in the home "for at least two years" on line 8. We want flexibility to use the funds for children who could be stepped down from a group home or RCC into a foster home prior to age 18. Under current law, the step down would have to occur prior to age 16 and has made some otherwise qualified children ineligible.
- Delete reference to receiving exceptional payments for at least two years on line 9-11. The criteria should be simply that the child may live in the family home or non-institutional setting after age 21.
- These changes will give DCF the maximum flexibility in being able to use the funds to support continued placement for children as they age out of foster care. The original target group for this program when it was created in 1986 was physically and developmentally disabled youth. The recent implementation of the Family Care Program provides an ongoing support program for disabled youth. Modifying the statute will allow DCF to use the funds for youth with emotional disorders and mental illness.

Section 160-167, pp. 58-62: Note now that formerly kinship care relatives will now only be allowed to receive payments as licensed foster parents, the mandatory bars for certain crimes and maltreatment substantiations that apply to foster parents under s. 48.685 will now apply to these licensed relatives. Under the existing kinship care provisions, any such bar can be waived. Under the new graduated licensing structure, these relatives may still be able to provide care, but will not be able to receive any TANF kinship care funding.

See the attached memo from Mark Mitchell for more detail. We recommend that LRB contact Mark Mitchell or Therese Durkin in the DCF Legal Counsel to talk about options to rectify this problem.

Section 139-145, pp. 49-52: Formerly kinship care relatives will receive rights to appeal a decision to remove a child from their home to Division of Hearings and Appeals (DHA) or court as other licensed foster parents can do under s. 48.64. Draft is OK but expands DHA workload.

Section 206-207, pp. 74-75: Certain parental liabilities that exist under current statutes for kids in foster care under s. 49.345 will also exist for kids who were formerly kinship care kids. But note that section 202, p. 72-73 requires under s. 49.22 that DCF establish uniform fees for kids getting foster care, which will include kids who were formerly kinship care kids. DCF will have to address the uniform fee impacts.

Section 209, p.76, lines 9-14: Kids formerly in kinship care will now be eligible for Medical Assistance (MA) under s. 49.46. As a practical matter, children receiving TANF kinship care payments are eligible for MA but in a different eligibility status than foster children. This change to make all court ordered placements foster children for MA purposes will simplify MA eligibility and allow MA for these children to be done via referrals through eWisACWIS rather than applications to income maintenance agencies. The change will require DHS to update medical status codes and eligibility procedures and thus have a workload impact.

Sections 219-222, p. 78-79: It appears that former kinship care homes once licensed under this proposal may become subject to certain community living arrangement restrictions under ss. 60.63 if they are operated by corporations, child welfare agencies, churches, associations, or public agencies. It appears that there is also authority to grant exceptions to those limitations. DCF doesn't have much experience with community living arrangement restrictions, so we are not sure if this is an issue in practice, but thought we should note it. Also, it appears there is a typo in the draft because in ss. 221 & 222, the draft refers to amending s. 62.63 as a part of

amendments to s. 60.63.

Section 223, p. 79: It appears that kids formerly in kinship care will be subject to family medical leave provisions under s. 103.10, which previously applied to an employee's kids, foster kids, step kids, or kids who were under the guardianship and the legal ward of the employee.

Section 227, p. 80, lines 6-13: It appears that kids formerly in kinship care will now be eligible for tuition payments made by the state under s. 121.79. *IF tax exempt 70.11*

Section 231, p. 81, lines 11-14: A former kinship care provider will now be liable for damages caused by the child's use of fireworks if the now foster parent consents to the use.

Sections 233-234, p.82-83: Parents of kids who were formerly kinship care kids will be subject to certain liabilities under s. 301.12 for placement in foster homes related to delinquent/criminal acts.

Sections 235-236, pp. 83-84, counties will be assessed rates for kids who were formerly kinship care kids for placement in foster homes under s. 301.26 related to delinquent/criminal acts.

Sections 241-245, pp.85-86: Certain mandatory risk insurance plans related to foster homes authorized under s. 619.01 will now also include kids who were formerly kinship care kids.

Section 257, p. 89, lines 15-20: Does the deletion of kinship care references still allow the state to determine paternity for a kid who was formerly a kinship care kid pursuant to an assignment of benefits under 49.19(4)(h)1. or 49.45(19), or receipt of benefits under s. 49.148, 155, 157 or 159 when evidence other than the mother's testimony which is not required under 767.87(6)(a)? Is this covered by the s. 49.19 references to AFDC or MA establishment of paternity or elsewhere in the statutes?

Sections 260-267, pp.90-92: Former kinship care providers who become licensed foster parents and placing agencies for kids who were formerly kinship care kids will now be provided immunity from civil liability for certain acts or omissions or acts or omission of their now foster kids under certain circumstances as provided in s. 895.485.

Section 330, p. 113, lines 3-7: Awards by DOJ for victims of certain crimes against DOJ employees will now be required to include kids who were formerly kinship care kids of the employee as family members who may receive an award under s. 949.06(1m)(a).

Section 91-8, page 113: Regarding the transition of former kinship providers to licensed foster parents, the transition to licensed status will not be automatic. While the kinship providers have passed criminal background checks, by becoming licensed they are now subject to federal Adam Walsh fingerprint and child abuse and neglect (CAN) check requirements. The feds will enforce the Adam Walsh requirements for IV-E purposes, so DCF and counties will have to conduct fingerprint and CAN checks of the court-ordered kinship providers prior to licensing them as foster parents. So we cannot automatically grandfather all current Kinship Care providers. An addition could be made to the transition language to specify that kinship providers may be licensed provided they meet all federal requirements for licensure.

= line 25 and who passes background check

John Tuohy
Deputy Administrator
Division of Safety and Permanence
WI Department of Children and Families
Phone 608-267-3832
Fax 608-266-5547

From: Stinebrink, Cory R - DOA
Sent: Friday, January 02, 2009 4:30 PM
To: Tuohy, John O - DCF

01/24/2009

Cc: Nikolay, Robert A - DCF

Subject:

John-

Here are the statutory language drafts from LRB for the graduated licensing and rate regulation initiatives. Other drafts are still works in progress that haven't been returned to me.

Cory Robert Stinebrink

Executive Policy & Budget Analyst

State Budget Office

(608)266-8219

DEPARTMENT OF CHILDREN AND FAMILIES
Office of Legal Counsel

Date: January 21, 2009
To: Mark Campbell, DPSI
From: Mark Mitchell, OLC (*Mark Mitchell*)
Re: Crosswalk of Criminal Background Checks: Foster Care and Kinship Care

Mark, you had requested that I compare the offenses that would (or could) prohibit a person from being licensed as a foster parent and from receiving a Kinship Care payment. In the attached document, you will find that comparison.

A significant difference between the programs, however, is the flexibility in approving the license or the payment when a conviction exists. As you know, the federal law (Title IV-E) identifies certain crimes that may result in a permanent bar or a 5-year bar to licensure. There is no flexibility in these cases. Under state law, there are some offenses not included in the federal law where there is flexibility if a person successfully "passes" a rehabilitation review. These are identified on the attached table.

The criteria for successfully "passing" a rehabilitation review are the following, which are found at s. DHS 12.12(4)(d)1. to 17., Adm. Code:

1. Personal reference checks and comments from employers, persons, and agencies familiar with the applicant and statements from therapists, counselors and other professionals.
2. Evidence of successful adjustment to, compliance with or proof of successful completion of parole, probation, incarceration or work release privileges.
3. Proof that the person has not had subsequent contacts with law enforcement agencies leading to probable cause to arrest or evidence of noncompliance leading to investigations by other regulatory enforcement agencies.
4. Any pending or existing criminal or civil arrest warrants, civil judgments or other legal enforcement actions or injunctions against the person.
5. Any aggravating or mitigating circumstances surrounding the crime, act or offense.
6. Evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts or attempts at restitution, and demonstrated ability to develop positive social interaction and increased independence or autonomy of daily living.
7. The amount of time between the crime, act or offense and the request for rehabilitation review, and the age of the person at the time of the offense.
8. Whether the person is on the sexual offender registry under s. 301.45, Stats., or on a similar registry in another jurisdiction.
9. A victim's impact statement, if appropriate.
10. Employment history, including evidence of acceptable performance or competency in a position and dedication to the person's profession.
11. The nature and scope of the person's contact with clients in the position requested.
12. The degree to which the person would be directly supervised or working independently in the position requested.
13. The opportunity presented for someone in the position to commit similar offenses.
14. The number, type and pattern of offenses committed by the person.

15. Successful participation in or completion of recommended rehabilitation, treatment or programs.
16. Unmet treatment needs.
17. The applicant's veracity.

The Kinship Care Program, on the other hand, requires an automatic denial of an application but provides for a review process regardless of the nature of the offense of which the person was convicted. The criteria for this review are the following, which are found at s. 48.57(3p)(h)2.a. to c.:

- a. The length of time between the date of the arrest, conviction or of the imposition of the penalty and the date of the review.
- b. The nature of the violation or penalty and how that violation or penalty affects the ability of the kinship care relative to care for the child.
- c. Whether making an exception to the denial or prohibition would be in the best interests of the child.

The differences in the programs could have an impact on the legislative proposal related to graduated foster care licensing. For example, a person could have a conviction related to reckless injury and still be receiving a Kinship Care payment if the county director reviewed the case and approved the payment. However, reckless injury in the foster care program would be a permanent bar (so a rehabilitation review is not even possible).

I checked with Mary Kennedy today to review the BMCW policy on Kinship Care appeals. According to Mary, BMCW will entertain an appeal of certain offenses if it has been five years since the conviction and they have not had any "bar"able offenses since that time. However, they will not entertain any appeals, regardless of time, when there has been a conviction related to sexual assaults or homicide of any type.

A more detailed analysis would be required to determine how many Kinship Caregivers in Milwaukee and statewide would not be eligible to become foster parents because of the change from the Kinship Care to the Foster Care programs.

It should be noted that Title IV-E precludes licensure of a person with a permanent or 5-year bar "regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part . . ." [Ref. s. 471(a)(20)(A)(intro.)] As such, whether the person was to be paid under state funds, federal Title IV-E funds, or TANF funds, the state would not be allowed to license the person as a foster parent.

For your convenience, the following documents relate to this topic:

- Ch. DHS 12, Adm. Code: Caregiver Background Checks
- Ch. DCF 58, Adm. Code: Eligibility for the Kinship Care and Long-Term Kinship Care Program
- Section 48.57, Stats.: Powers and duties of department and county departments providing child welfare services; subs. (3m), (3n), (3p), and (3t)
re: Kinship Care and Long-Term Kinship Care
- Section 48.685, Stats.: Criminal history and child abuse record search

Mark Campbell
January 21, 2009
Page 3

Please let me know if you have any questions regarding this information.

c: Cyrus Behroozi, DSP
Jonelle Brom, DSP/BPOHC
Kimmie Collins, DCF
Therese Durkin, OLC
Mary Kennedy, BMCW
Connie Klick, DSP/DSWB
June Paul, DSP
Holly Telfer, DSP/BPOHC
John Tuohy, DSP
Nancy Wettersten, OLC

**Comparison of Crimes Affecting
the Granting of a Foster Home License
or Approving a Kinship Care Payment**

Penalty or Offense	KC	FC
Finding by a governmental agency of neglect or abuse of a client	by implication	6
Finding by a governmental agency of misappropriation of a client's property	by implication	6
Finding by a governmental agency of child abuse or neglect	by implication	6
Ch. 961 (felony)		3
Penalties (if a penalty enhancer was imposed) <ul style="list-style-type: none"> • use of bulletproof garment • concealing identity • habitual criminality • certain domestic abuse offenses • use of a dangerous weapon • "hate crime" 		
1 st degree intentional homicide		1
1 st degree reckless homicide		1
Felony murder		1
Abortion		
2 nd degree intentional homicide		1
2 nd degree reckless homicide		1
Homicide; negligent control of vicious animal		
Homicide; negligent handling of dangerous weapon, explosives, or fire		
Homicide; intoxicated use of vehicle or firearm		
Homicide; negligent operation of vehicle		
Mutilating or hiding a corpse		
Assisting suicide		6
Abortion		
Partial-birth abortion		
Battery; felony		4
Battery; substantial battery; aggravated battery		
Battery to unborn child; substantial battery to unborn child; aggravated battery to unborn child		
Battery; special circumstances		3
Battery; special circumstances; battery by persons subject to certain injunctions		2
Battery or threat to witness		
Battery or threat to judge		3
Battery or threat to Dept. of Revenue employee		3
Battery or threat to Dept. of Commerce employee		3
Battery or threat to Dept. of Workforce Development employee		3
Mayhem		1
Sexual exploitation by therapist		6
Sexual assault		1
Reckless injury		1
Injury; negligent handling of dangerous weapon, explosives, or fire		
Injury; intoxicated use of vehicle		

* If committed within the twenty years immediately prior to the investigation for Kinship Care payment.

1 – Permanent bar

2 – Permanent bar if spouse is victim

3 – Bar for 5 years from time crime committed

4 – If spouse is victim, bar is permanent; otherwise, 5 year bar from time crime committed; then must show rehabilitation

6 – Non-specified time for bar; must show rehabilitation

Penalty or Offense	KC	FC
Abuse of individuals at risk		6
Abuse of residents of penal facilities		6
Abuse and neglect of patients and residents		6
False imprisonment		
Taking hostages		1
Kidnapping		1
Stalking		
Intimidation of witness; misdemeanor		
Intimidation of witness; felony		
Intimidation of victims; misdemeanor		
Intimidation of victims; felony		
Violation of court orders		
Endangering safety by use of a dangerous weapon		1
Disarming a peace officer		1
Burglary while armed		1
Operating vehicle without owner's consent		1
Robbery with dangerous weapon		1
Bigamy		
Incest		
Public fornication		
Adultery		
Sexual gratification		
Lewd and lascivious behavior		
Obscene material or performance		
Making lewd, obscene, or indecent drawings		
Sending obscene or sexually explicit electronic messages		
Prostitution*		
Patronizing prostitutes*		
Soliciting prostitutes		
Pandering*		
Keeping place of prosecution		
Other offenses against children <ul style="list-style-type: none"> • employment of minors • pupil discrimination • furnishing alcohol beverages to underage persons • infant blindness • applying lead-bearing paints • selling or transferring objects containing lead-bearing paints • boxing 		
Sexual assault of a child		1
Engaging in repeated acts of sexual assault of the same child		1
Physical abuse of a child		1
Causing mental harm to a child		1
Sexual exploitation of a child		1
Causing a child to view or listen to sexual activity		1
Incest with a child		1
Child enticement		1
Use of a computer to facilitate a child sex crime		1
Soliciting a child for prostitution		1
Sexual assault of a child placed in substitute care		1
Sexual intercourse with a child age 16 or older		

* If committed within the twenty years immediately prior to the investigation for Kinship Care payment.

1 – Permanent bar

2 – Permanent bar if spouse is victim

3 – Bar for 5 years from time crime committed

4 – If spouse is victim, bar is permanent; otherwise, 5 year bar from time crime committed; then must show rehabilitation

6 – Non-specified time for bar; must show rehabilitation

Penalty or Offense	KC	FC
Sexual assault of a child by a school staff person		1
Sexual assault of a child by a person who works or volunteers with children		1
Exposing genitals or pubic area		
Exposing a child to harmful material or harmful descriptions or narrations		1
Possession of child pornography		1
Child sex offender working with children		1
Registered sex offender and photographing minors		1
Abandonment of a child		1
Neglecting a child		
Neglecting a child; resulting in death		1
Failure to support		
Failure to support; felony		1
Concealing death of child		1
Unauthorized placement for adoption		1
Abduction of another's child; constructive custody		1
Interference with custody by parent or others		1
Contributing to the delinquency of a child		
Contributing to the delinquency of a child; felony		1
Strip search by a school employee		
Hazing		
Hazing; felony		1
Child unattended in child care vehicle		
Child unattended in child care vehicle resulting in death		1
Leaving or storing a loaded firearm with the reach or easy access of a child		
Possession of a dangerous weapon by a person under 18		
Possession of a dangerous weapon by a person under 18; felony		1
Gun-free school zones		
Gun-free school zones; felony		1
Dangerous weapons other than firearms on school premises		
Dangerous weapons other than firearms on school property; felony		1
Receiving stolen property from a child		
Receiving stolen property from a child; felony		1

- * If committed within the twenty years immediately prior to the investigation for Kinship Care payment.
- 1 – Permanent bar
 - 2 – Permanent bar if spouse is victim
 - 3 – Bar for 5 years from time crime committed
 - 4 – If spouse is victim, bar is permanent; otherwise, 5 year bar from time crime committed; then must show rehabilitation
 - 6 – Non-specified time for bar; must show rehabilitation