

**2009 DRAFTING REQUEST**

**Senate Amendment (SA-SB(LRBx3491/1))**

Received: **10/14/2009**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Carrie Kahn**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Graduated foster licensing; technical changes

---

**Instructions:**

See attached--1. Change "basic" foster care to "level one" foster care. 2. Permit care for a child assessed at a higher level of care only if agency grants exception. 3. Permit licensing across county lines without agreement only for child in home of relative or guardian. 4. Clarify that bill only applies to children in homes of long-term kinshp care relatives under court order.

---

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 10/14/2009	jdyer 10/15/2009		_____			
/1			jfrantze 10/15/2009	_____	wls_lrblegal2 10/15/2009	cduerst 10/15/2009	
				_____	cduerst		
				_____	10/15/2009		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/2	gmalaise 10/19/2009	jdyer 10/20/2009	jfrantze 10/20/2009	_____	lparisi 10/20/2009	lparisi 10/20/2009	

FE Sent For:

**<END>**

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/?	gmalaise 10/14/2009	jdye 10/15/2009		_____			
/1		<i>12/20 jld</i>	jfrantze 10/15/2009	<i>[Signature]</i> _____	wls_lrblegal2 10/15/2009 cduerst 10/15/2009	cduerst 10/15/2009	

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

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See attached--1. Change "basic" foster care to "level one" foster care. 2. Permit care for a child assessed at a higher level of care only if agency grants exception. 3. Permit licensing across county lines without agreement only for child in home of relative or guardian. 4. Clarify that bill only applies to children in homes of long-term kinshp care relatives under court order.

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/?	gmalaise	1 10/15 jld	26 10/15	26 ps 10/15			

FE Sent For:

<END>

## Malaise, Gordon

---

**From:** Kahn, Carrie  
**Sent:** Wednesday, October 14, 2009 10:25 AM  
**To:** Malaise, Gordon  
**Subject:** amendment to graduated foster care licensing bill

Hi Gordon,

I understand that DCF will be meeting with you in an hour to go over some changes necessary to the graduated foster care licensing bill. You can go ahead and draft any amendments to that bill they require and send it to me.

Thanks,

Carrie Kahn  
Legislative Assistant  
State Senator Bob Jauch  
P.O. Box 7882  
Madison, WI 53707-7882

608-266-3510  
1-800-469-6562

- 3491

- 3671

Levels of care changes:

- ✓ Change all references of "basic" to "licensed and certified level one provider"
- ✓ Section 13: add that an exception may be granted if services are showed
  - Services will be outlined in rules
- ✓ Section 14: add that a county can only license a child specific home in another county. Current law would apply to all other placements
- Why is the language regarding 24.10 included? - *clean up - treatment foster*
- ✓ ~~Delete~~ all references to long-term kinship care - *NO - clarify that only court-ordered*
- Ask about page 19 relative kinship reference - *kinship relatives receiving payments not all relatives*
- Tribal changes:
  - Page 6, Line 8: Delete "and". After "(3p)", insert ", and (3t)"

Page 7, Line 6: after "subsection" insert "or the tribe under subs. (3t)"

Page 7, Line 8: After "48.62(1)" insert "or the law or ordinance of the tribe"

Page 7, Line 9: Amend it to read: "The county department ~~or~~, department, or tribe determines ..."

Page 7, Line 14: After "department" insert "or the tribe"

Page 7, Line 17: Amend to read: "... the county department ~~or~~, department, or tribe"

Page 7, Line 22: Amend to read: "... the county department ~~or~~, department, or tribe received the"

Page 7, Line 24: Amend to read "... the county department ~~or~~, department, or tribe may make payments under par. (am)"

Page 7, Line 25: Amend to read: "... the county department ~~or~~, department, or tribe received"

Page 8, Line 5: After "department" insert "or the tribe"

Page 8, Line 7: Amend to read: "... the county department ~~or~~, department, or tribe submits to the court information"

Page 9, Line 4: After "500,000" insert "and tribes"

Page 9, Line 7: After "department" insert ", a tribe,"

Page 9, Line 13: Amend to read: "... department ~~or~~, department, or tribe for payments ..."

No  
Covered  
in  
48.57  
(3+)

№  
48.57  
(31)

Page 9, Line 14: After "48.62(1)" insert "or tribal law or ordinance"  
Page 9, Line 15: After "48.977(2)" insert "or under tribal law or custom"

Page 9, Line 18: After "department" insert "or a tribe"

Page 9, Line 21: Amend to read: "... county department or,"

Page 9, Line 22: After "department" insert "or tribe"

Page 10, Line 2: Amend to read: "... county department or, department, or tribe"

Page 10, Line 4: Amend to read: "... county department or, department, or tribe"

Page 10, Lines 5-6: Amend to read: "... county department or, department, or tribe"

Page 10, Line 11: After "department" insert "or a tribe"

Page 10, Line 13: Amend to read: "... county department or, department, or tribe"

Page 11, Line 18: After "department" insert ", county department, or licensed child welfare agency"  
•

## Malaise, Gordon

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**From:** Mitchell, Mark S - DCF [Mark.Mitchell@wisconsin.gov]  
**Sent:** Thursday, October 15, 2009 1:16 PM  
**To:** Malaise, Gordon  
**Subject:** RE: Graduated Foster Licensing Amendment and Tribes

Hey, Gordon. Sounds like a very good and reasonable solution -- that's why you get the big bucks!

Thanks much, Gordon.

--Mark

---

**From:** Malaise, Gordon [mailto:Gordon.Malaise@legis.wisconsin.gov]  
**Sent:** Thursday, October 15, 2009 10:04 AM  
**To:** Mitchell, Mark S - DCF  
**Subject:** Graduated Foster Licensing Amendment and Tribes

Mark:

Although I advised yesterday that it is not necessary to insert "or tribe" throughout s. 48.57 (3m), (3n), and (3p) because the agreement under s. 48.57 (3t) will "bootstrap" tribes into those subsections, on further review I think that the specific references to "foster license *under s. 48.62 (1)*" and "guardianship *under s. 48.977*" could pose a problem because those specific references would exclude foster care licenses and guardianships under tribal law or custom.

But at the same time it would be puzzling to insert "under tribal law or custom" but not insert "tribe," so what the amendment, which you should receive sometime later today, does is simply delete the specific cross references to ss. 48.62 (1) and 48.977 so the language will simply say "apply for a foster home license" and "appointed as the guardian." It goes without saying that foster home license in this state would either be under s. 48.62 (1) or under tribal law or custom. Also, the reference to s. 48.977 is too narrow because you and the others indicated that ch.54 guardians are long-term kinshp care relatives too. So, a reference to "guardian," period, would include guardianships under s. 48.977, ch. 54, or tribal law or custom.

Gordon



State of Wisconsin  
2009-2010 LEGISLATURE

LRBa0878/1  
GMM  
JLD

EW 12/14  
S-on

SENATE AMENDMENT,  
TO 2009 SENATE BILL (LRB-3491/1)

1 At the locations indicated, amend the bill as follows: ✓

2 1. Page 7, line 8: delete that line and substitute "foster home." ✓

3 2. Page 9, line 11: delete lines 11 to 15 ✓ and substitute:

4 "SECTION 10d. 48.57 (3n) (am) 1. of the statutes is amended to read:

5 48.57 (3n) (am) 1. The long-term kinship care relative applies to the county

6 department or department for payments under this subsection and, provides proof

7 that he or she has been appointed as the guardian of the child under s. 48.977 (2),

8 and, if the child is placed in the home of the long-term kinship care relative under

9 a court order, applies to the county department or department for a license to operate

10 a foster home." ✓

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109; 2005 a. 25, 232, 293; 2007 a. 20; 2009 a. 28.

11 3. Page 11, line 6: delete that line and substitute "age by a foster home that

12 is certified to provide level one care, as defined in the rules" ✓

1           **4.** Page 11, line 8: delete "licensed" and substitute "certified". ✓

2           **5.** Page 11, line 9: delete "that basic level of care," and substitute "such level  
3 one care,". ✓

4           **6.** Page 11, line 13: delete that line and substitute "foster home that is  
5 certified to provide level one care, as defined in the rules". ✓

6           **7.** Page 11, line 15: delete "licensed" and substitute "certified". ✓

7           **8.** Page 11, line 16: delete "that basic level of care," and substitute "such level  
8 one care,". ✓

9           **9.** Page 11, line 18: delete "department" and substitute "department, county  
10 department, or licensed child welfare agency". ✓

11           **10.** Page 12, line 6: delete the material beginning with "or," and ending with

12 ✓ "care." on page 12, line 7 and substitute "A foster home that is licensed to provide  
13 a given level of care under par. (a) may not provide foster care for any child whose  
14 needs are assessed to be above that level of care unless the person operating the  
15 foster home shows that support or services sufficient to meet the child's needs are in  
16 place and the department, county department, or child welfare agency issuing the  
17 foster home license grants an exception to that prohibition.". ✓

18           **11.** Page 12, line 9: delete the material beginning with that line and ending  
19 with page 13, line 8, and substitute:

20           "**SECTION 14d.** 48.75 (1g) (c) (intro.) of the statutes is amended to read:

21           48.75 (**1g**) (c) (intro.) No license may be issued under par. (a) 1., 2., or 3. unless  
22 the public licensing agency issuing the license has notified the public licensing  
23 agency of the county in which the foster home will be located of its intent to issue the

1 license and no license may be issued under par. (a) 2. or 3. unless the 2 public  
 2 licensing agencies have entered into a written agreement under this paragraph. A  
 3 public licensing agency is not required to enter into any agreement under this  
 4 paragraph allowing the public licensing agency of another county to license a foster  
 5 home within its jurisdiction. The written agreement shall include all of the  
 6 following:

History: 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 336; 1993 a. 395, 446; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 103; 2005 a. 232; 2007 a. 20 ss. 1362, 1363, 9121 (6) (a); 2007 a. 186; 2009 a. 28.

7 **SECTION 17g.** 48.75 (1g) (cm) of the statutes is created to read:

8 48.75 (1g) (cm) Notwithstanding that a written agreement under par. (c) is not  
 9 required for the issuance of a license under par. (a) 1., the public licensing agency  
 10 issuing the license shall have the responsibilities specified in par. (c) 1., shall be  
 11 responsible for the costs specified in par. (c) 2., and shall have in place the procedures  
 12 specified in par. (c) 3.

13 **SECTION 18d.** 48.75 (1g) (d) of the statutes is amended to read:

14 48.75 (1g) (d) If the public licensing agency issuing a license under par. (a) ~~1.,~~  
 15 2. or 3. violates the agreement under par. (c), the public licensing agency of the county  
 16 in which the foster home is located may terminate the agreement and, subject to ss.  
 17 48.357 and 48.64, require the public licensing agency that issued the license to  
 18 remove the child from the foster home within 30 days after receipt, by the public  
 19 licensing agency that issued the license, of notification of the termination of the  
 20 agreement.”.

History: 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 336; 1993 a. 395, 446; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 103; 2005 a. 232; 2007 a. 20 ss. 1362, 1363, 9121 (6) (a); 2007 a. 186; 2009 a. 28.

21

(END)

**Malaise, Gordon**

---

**From:** Bachir, Julie S - DCF [Julie.Bachir@wisconsin.gov]  
**Sent:** Monday, October 19, 2009 3:22 PM  
**To:** Malaise, Gordon  
**Cc:** Durkin, Therese A - DCF; Collins, Kimmie L - DCF; Mitchell, Mark S - DCF  
**Subject:** LRB 09a0878 Topic: Graduated foster licensing

( 00878  
90879 )

Hi Gordon,

3671

Regarding LRB 3491/1, we suggest the following two changes regarding item 10 of the amendment (Page 2 of the amendment):

1. Page 2, line 11 of the amendment: the word "licensed" should be "certified" to be consistent with the other changes made in the amendment
2. Lines 13 and 14: We do not want it to be the responsibility of the person operating the foster home to show that support and services are in place (or their responsibility to provide those supports). This is something that the foster parent simply needs to be willing and able to do, and the licensing agency has to assure exists before making the placement. Thus we recommend that the language be written more passively, with language such as "[the foster home may not provide care to a child assessed at a higher level] unless support or services sufficient to meet the child's needs are in place and the department...grants an exception"

I think Therese also still had a question to you regarding change of placement/termination of guardianships.

Call me if you have any questions. Thank you!

Julie S. (Bachir) Majerus  
Policy Advisor  
Division of Safety and Permanence  
Department of Children and Families  
Phone: 608-267-2073

**Malaise, Gordon**

---

**From:** Bachir, Julie S - DCF [Julie.Bachir@wisconsin.gov]  
**Sent:** Monday, October 19, 2009 4:28 PM  
**To:** Malaise, Gordon  
**Subject:** just to make sure  
**Importance:** High

I assume you know this but – the court would need to make the determination to continue placement in both instances: if the provider is deemed unlicensable OR is denied a license.

Thank you!  
*denied or determined to be not eligible for licensure*

Julie S. (Bachir) Majerus  
Policy Advisor  
Division of Safety and Permanence  
Department of Children and Families  
Phone: 608-267-2073

*i.e., may w/ draw app before  
formal denial because  
background checks shows ineligibility*



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBa0878/1  
GMM:jld:jf

2  
RMP

IN 10/19  
Wanted 10/20

SENATE AMENDMENT,  
TO 2009 SENATE BILL (LRB-3491/1)

1 ✓  
Insert  
1-2  
2

At the locations indicated, amend the bill as follows:

1. Page 7, line 8: delete that line and substitute "foster home.".

2. Page 9, line 11: delete lines 11 to 15 and substitute:

"SECTION 10d. 48.57 (3n) (am) 1. of the statutes is amended to read:

48.57 (3n) (am) 1. The long-term kinship care relative applies to the county

department or department for payments under this subsection and, provides proof

that he or she has been appointed as the guardian of the child under s. 48.977 (2),

and, if the child is placed in the home of the long-term kinship care relative under

a court order, applies to the county department or department for a license to operate

a foster home.".

3. Page 11, line 6: delete that line and substitute "age by a foster home that

is certified to provide level one care, as defined in the rules".

4. Page 11, line 8: delete "licensed" and substitute "certified".

9 ✓  
Insert  
1-16  
10

11  
12  
13

1           **5.** Page 11, line 9: delete "that basic level of care," and substitute "such level  
2 one care,".

3           **6.** Page 11, line 13: delete that line and substitute "foster home that is certified  
4 to provide level one care, as defined in the rules".

5           **7.** Page 11, line 15: delete "licensed" and substitute "certified".

6           **8.** Page 11, line 16: delete "that basic level of care," and substitute "such level  
7 one care,".

8           **9.** Page 11, line 18: delete "department" and substitute "department, county  
9 department, or licensed child welfare agency". certified ✓

10           **10.** Page 12, line 6: delete the material beginning with "or," and ending with  
11 "care." on line 8 and substitute ". A foster home that is ~~licensed~~ to provide a given  
12 level of care under par. (a) may not provide foster care for any child whose needs are  
13 assessed to be above that level of care unless the person operating the foster home  
14 shows that support or services sufficient to meet the child's needs are in place and  
15 the department, county department, or child welfare agency issuing the foster home  
16 license grants an exception to that prohibition." determines that support or services  
sufficient to meet the child's needs ✓

17           **11.** Page 12, line 9: delete the material beginning with that line and ending are in  
place  
and  
18 with page 13, line 8, and substitute:

19           "**SECTION 14d.** 48.75 (1g) (c) (intro.) of the statutes is amended to read:

20           48.75 (1g) (c) (intro.) No license may be issued under par. (a) 1., 2., or 3. unless  
21 the public licensing agency issuing the license has notified the public licensing  
22 agency of the county in which the foster home will be located of its intent to issue the  
23 license and no license may be issued under par. (a) 2. or 3. unless the 2 public  
24 licensing agencies have entered into a written agreement under this paragraph. A

1 public licensing agency is not required to enter into any agreement under this  
2 paragraph allowing the public licensing agency of another county to license a foster  
3 home within its jurisdiction. The written agreement shall include all of the  
4 following:

5 **SECTION 17g.** 48.75 (1g) (cm) of the statutes is created to read:

6 48.75 (1g) (cm) Notwithstanding that a written agreement under par. (c) is not  
7 required for the issuance of a license under par. (a) 1., the public licensing agency  
8 issuing the license shall have the responsibilities specified in par. (c) 1., shall be  
9 responsible for the costs specified in par. (c) 2., and shall have in place the procedures  
10 specified in par. (c) 3.

11 **SECTION 18d.** 48.75 (1g) (d) of the statutes is amended to read:

12 48.75 (1g) (d) If the public licensing agency issuing a license under par. (a) ~~1,~~  
13 2. or 3. violates the agreement under par. (c), the public licensing agency of the county  
14 in which the foster home is located may terminate the agreement and, subject to ss.  
15 48.357 and 48.64, require the public licensing agency that issued the license to  
16 remove the child from the foster home within 30 days after receipt, by the public  
17 licensing agency that issued the license, of notification of the termination of the  
18 agreement.”.

19

(END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa0878/2ins  
GMM.....

(INSERT 1-2)

1           **1.** Page 7, line 19: after “denied” insert “or the kinship care relative is  
2 otherwise determined to be ineligible for licensure”.

3           **2.** Page 7, line 20: delete “denied.” and substitute “denied or the kinship care  
4 relative is otherwise determined to be ineligible for licensure.”.

5           **3.** Page 7, line 21: after “denied” insert “or the kinship care relative is not  
6 otherwise determined to be ineligible for licensure”.

7           **4.** Page 8, line 1: after “denied” insert “or the kinship care relative is otherwise  
8 determined to be ineligible for licensure”.

9           **5.** Page 8, line 2: delete “denied.” and substitute “denied or the kinship care  
10 relative is otherwise determined to be ineligible for licensure”.

11           **6.** Page 8, line 4: delete “denied,” and substitute “denied or the kinship care  
12 relative is otherwise determined to be ineligible for licensure”.

(END OF INSERT)

(INSET 1-10)

13           **7.** Page 9, line 24: after “denied” insert “or the long-term kinship care relative  
14 is otherwise determined to be ineligible for licensure”.

15           **8.** Page 9, line 25: delete “denied.” and substitute “denied or the long-term  
16 kinship care relative is otherwise determined to be ineligible for licensure”.

17           **9.** Page 10, line 1: after “denied” insert “or the long-term kinship care relative  
18 is not otherwise determined to be ineligible for licensure”.

19           **10.** Page 10, line 7: after “denied” insert “or the long-term kinship care  
20 relative is otherwise determined to be ineligible for licensure”.



INS 1-10  
cont

1           **11.** Page 10, line 8: delete "denied." and substitute "denied or the long-term  
2 kinship care relative is otherwise determined to be ineligible for licensure."

3           **12.** Page 10, line 10: delete "denied," and substitute "denied or the long-term  
4 kinship care relative is otherwise determined to be ineligible for licensure,"

5           **13.** Page 10, line 24: delete "specified in s. 48.977 (4) (a)" and substitute "who  
6 is authorized to file a petition for the appointment of a guardian for the child".

(END OF INSERT)