

1 ✓ **SECTION 99.** 938.38 (5) (bm) 1. of the statutes, as created by 2009 Wisconsin Act
2 (this act), is amended to read:

3 938.38 (5) (bm) 1. A juvenile, parent, guardian, legal custodian, foster parent,
4 ~~treatment foster parent~~, operator of a facility, or relative who is provided notice of the
5 review under par. (b) shall have a right to be heard at the review by submitting
6 written comments relevant to the determinations specified in par. (c) not less than
7 10 working days before the date of the review or by participating at the review. A
8 person representing the interests of the public, counsel, or guardian ad litem who is
9 provided notice of the review under par. (b) may have an opportunity to be heard at
10 the review by submitting written comments relevant to the determinations specified
11 in par. (c) not less than 10 working days before the date of the review. A foster parent,
12 ~~treatment foster parent~~, operator of a facility, or relative who receives notice of a
13 hearing under par. (b) and a right to be heard under this subdivision does not become
14 a party to the proceeding on which the review is held solely on the basis of receiving
15 that notice and right to be heard.

16 **SECTION 100.** 938.38 (5) (c) 6. (intro.) of the statutes is amended to read:

17 938.38 (5) (c) 6. (intro.) If the juvenile has been placed outside of his or her
18 home, as described in s. 938.365 (1), for 15 of the most recent 22 months, not including
19 any period during which the juvenile's care was not eligible for reimbursement under
20 42 USC 670 to 679b, any period during which the juvenile was a runaway from the
21 out-of-home placement, or the first 6 months of any period during which the juvenile
22 was returned to his or her home for a trial home visit, the appropriateness of the

1 permanency plan and the circumstances which prevent the juvenile from any of the
2 following:

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; 2009 a. 28.

(END OF INSERT)

(INSERT 54-14)

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3 SECTION 101. 938.38 (5) (c) 8. of the statutes is created to read:

4 938.38 (5) (c) 8. If the juvenile has one or more siblings, as defined in s. 938.38
5 (4) (br) 1., who have also been removed from the home, whether reasonable efforts
6 were made by the agency to place the juvenile in a placement that enables the sibling
7 group to remain together, unless the court or panel determines that a joint placement
8 would be contrary to the safety or well-being of the juvenile or any of those siblings,
9 in which case the court or panel shall determine whether reasonable efforts were
10 made by the agency to provide for frequent visitation or other ongoing interaction
11 between the juvenile and those siblings, unless the court or panel determines that
12 such visitation or interaction would be contrary to the safety or well-being of the
13 juvenile or any of those siblings.

(END OF INSERT)

(INSERT 55-10)

14 SECTION 102. 938.38 (5) (e) of the statutes, as affected by 2009 Wisconsin Acts
15 28 and ... (this act), is repealed and recreated to read:

16 938.38 (5) (e) Within 30 days, the agency shall prepare a written summary of
17 the determinations under par. (c) and shall provide a copy to the court that entered
18 the order, the juvenile or the juvenile's counsel or guardian ad litem, the person
19 representing the interests of the public, the juvenile's parent, guardian, and legal

1 custodian, and the juvenile's foster parent, the operator of the facility where the
2 juvenile is living, or the relative with whom the juvenile is living.

NOTE: NOTE: Par. (e) is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:NOTE:

3 (e) Within 30 days, the agency shall prepare a written summary of the determinations under par. (c) and shall provide a copy to the court that entered the order,
4 the juvenile or the juvenile's counsel or guardian ad litem, the person representing the interests of the public, the juvenile's parent or guardian and the juvenile's foster
5 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; 2009 a. 28.

(END OF INSERT)

(INSERT 55-23)

6 SECTION 103. 938.38 (5m) (b) of the statutes, as affected by 2009 Wisconsin Acts
7 28 and (this act), is repealed and recreated to read:

8 938.38 (5m) (b) Not less than 30 days before the date of the hearing, the court
9 shall notify the juvenile; the juvenile's parent, guardian, and legal custodian; and the
10 juvenile's foster parent, the operator of the facility in which the juvenile is living, or
11 the relative with whom the juvenile is living of the time, place, and purpose of the
12 hearing, of the issues to be determined at the hearing, and of the fact that they shall
13 have a right to be heard at the hearing as provided in par. (c) 1. and shall notify the
14 juvenile's counsel, and the juvenile's guardian ad litem; the agency that prepared the
15 permanency plan; and the person representing the interests of the public of the time,
16 place, and purpose of the hearing, of the issues to be determined at the hearing, and
17 of the fact that they may have an opportunity to be heard at the hearing as provided
18 in par. (c) 1.

(END OF INSERT)

(INSERT 56-17)

19 SECTION 104. 938.38 (5m) (c) 1. of the statutes, as affected by 2009 Wisconsin
20 Acts 28 and (this act), is repealed and recreated to read:

1 938.38 (5m) (c) 1. A juvenile, parent, guardian, legal custodian, foster parent,
2 operator of a facility, or relative who is provided notice of the hearing under par. (b)
3 shall have a right to be heard at the hearing by submitting written comments
4 relevant to the determinations specified in sub. (5) (c) not less than 10 working days
5 before the date of the hearing or by participating at the hearing. A counsel, guardian
6 ad litem, agency, or person representing the interests of the public who is provided
7 notice of the hearing under par. (b) may have an opportunity to be heard at the
8 hearing by submitting written comments relevant to the determinations specified in
9 sub. (5) (c) not less than 10 working days before the date of the hearing or by
10 participating at the hearing. A foster parent, operator of a facility, or relative who
11 receives notice of a hearing under par. (b) and a right to be heard under this
12 subdivision does not become a party to the proceeding on which the hearing is held
13 solely on the basis of receiving that notice and right to be heard.

(END OF INSERT)

(INSERT 58-12)

14 SECTION 105. 938.38 (5m) (e) of the statutes is amended to read:

15 938.38 (5m) (e) After the hearing, the court shall make written findings of fact
16 and conclusions of law relating to the determinations under sub. (5) (c) and shall
17 provide a copy of those findings of fact and conclusions of law to the juvenile; the
18 juvenile's parent, guardian, and legal custodian; the juvenile's foster parent or
19 treatment foster parent, the operator of the facility in which the juvenile is living,
20 or the relative with whom the juvenile is living; the agency that prepared the
21 permanency plan; and the person representing the interests of the public. The court
22 shall make the findings specified in sub. (5) (c) 7. on a case-by-case basis based on

1 circumstances specific to the juvenile and shall document or reference the specific
 2 information on which those findings are based in the findings of fact and conclusions
 3 of law prepared under this paragraph. Findings of fact and conclusions of law that
 4 merely reference sub. (5) (c) 7. without documenting or referencing that specific
 5 information in the findings of fact and conclusions of law ~~or amended findings of fact~~
 6 ~~and conclusions of law that retroactively correct earlier findings of fact and~~
 7 ~~conclusions of law that do not comply with this paragraph~~ are not sufficient to comply
 8 with this paragraph.

NOTE: NOTE: Par. (e) is amended by 2009 Wis. Act 28 off. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:NOTE:

9 (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
 10 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; the operator of the facility~~
 11 ~~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
 12 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
 13 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
 14 and conclusions of law that merely reference sub. (5) (c) 7. without documenting or referencing that specific information in the findings of fact and conclusions of law
 15 or amended findings of fact and conclusions of law that retroactively correct earlier findings of fact and conclusions of law that do not comply with this paragraph are
 16 not sufficient to comply with this paragraph.

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; 2009 a. 28.

17 **SECTION 106. 938.38 (5m) (e)** of the statutes, as affected by 2009 Wisconsin Acts

18 ~~28~~ and (this act), is repealed and recreated to read:

19 938.38 (5m) (e) After the hearing, the court shall make written findings of fact
 20 and conclusions of law relating to the determinations under sub. (5) (c) and shall
 21 provide a copy of those findings of fact and conclusions of law to the juvenile; the
 22 juvenile's parent, guardian, and legal custodian; the juvenile's foster parent, the
 23 operator of the facility in which the juvenile is living, or the relative with whom the
 24 juvenile is living; the agency that prepared the permanency plan; and the person
 25 representing the interests of the public. The court shall make the findings specified
 26 in sub. (5) (c) 7. on a case-by-case basis based on circumstances specific to the
 27 juvenile and shall document or reference the specific information on which those
 28 findings are based in the findings of fact and conclusions of law prepared under this
 29 paragraph. Findings of fact and conclusions of law that merely reference sub. (5) (c)

1 7. without documenting or referencing that specific information in the findings of fact
2 and conclusions of law are not sufficient to comply with this paragraph.

3 **SECTION 107.** 938.78 (2) (i) of the statutes is created to read:

4 938.78 (2) (i) Paragraph (a) does not prohibit an agency from disclosing
5 information to a relative of a juvenile placed outside of his or her home only to the
6 extent necessary to facilitate the establishment of a relationship between the
7 juvenile and the relative or a placement of the juvenile with the relative or from
8 disclosing information under s. 938.21 (5) (e), 938.355 (2) (cm), or 938.357 (2v) (d).

9 In this paragraph, "relative" includes a relative whose relationship is derived
10 through a parent of the juvenile whose parental rights are terminated.

11 **SECTION 108.** 938.78 (2) (j) of the statutes is created to read:

12 938.78 (2) (j) Paragraph (a) does not prohibit an agency from disclosing
13 information to any public or private agency in this state or any other state that is
14 investigating a person for purposes of licensing the person to operate a foster home
15 or placing a juvenile for adoption in the home of the person.

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(INSERT 60-8)

16 (4) JUVENILE COURT REPORTS. The treatment of sections 48.33 (4) (c), 48.365 (2g)
17 (b) 3., 938.33 (4) (c), and 938.365 (2g) (b) 3. of the statutes first applies to reports filed
18 with the court assigned to exercise jurisdiction under chapters 48 and 938 on the
19 effective date of this subsection. e (1)

20 (5) JUVENILE COURT HEARINGS. The treatment of sections 48.21 (3) (f), 48.335 (3g)
21 (c) and (6), 48.357 (1) (c) 2m. and (2m) (bm), 938.21 (2) (e) and (3) (f), 938.335 (3g)
22 (c) and (6), and 938.357 (1) (c) 2m. and (2m) (bm) of the statutes first applies to

1 hearings held by the court assigned to exercise jurisdiction under chapters 48 and
2 938 on the effective date of this subsection.

3 (6) JUVENILE COURT ORDERS. The treatment of sections 48.21 (5) (e), 48.32 (1) (b)
4 1. c., 48.355 (2) (cm), 48.357 (2v) (d), 938.21 (5) (e), 938.32 (1) (c) 1. c., 938.355 (2) (cm),
5 and 938.357 (2v) (d) of the statutes first applies to a temporary physical custody
6 order, consent decree, dispositional order or change in placement order entered on
7 the effective date of this subsection.

8 (7) PLACEMENT WITH SIBLING.

9 (a) *Out-of-home placement.* The treatment of sections 48.21 (5) (b) 2m., 48.33
10 (4) (d), 48.335 (3g) (d), 48.355 (2) (b) 6p., 48.357 (2v) (a) 2m., 938.21 (5) (b) 2m., 938.33
11 (4) (d), 938.335 (3g) (d), 938.355 (2) (b) 6p. and 938.357 (2v) (a) 2m. of the statutes,
12 the renumbering and amendment of sections 48.38 (4) (br) and 938.38 (4) (br) of the
13 statutes, and the creation of sections 48.38 (4) (br) 2. and 938.38 (4) (br) 2. of the
14 statutes first applies to a child who is removed from his or her home of the effective
15 date of this subsection.

16 (b) *Adoptive placement.* The treatment of section 48.834 (2) of the statutes first
17 applies to a child who is placed for adoption on the effective date of this subsection.

18 (8) AMENDED ORDERS. The treatment of sections 48.21 (5) (c), 48.32 (1) (b) 3.,
19 48.355 (2) (b) 6. and (2d) (bm), 48.357 (2v) (b), 48.365 (2m) (a) 3., ~~48.38 (5m) (e)~~, 48.43
20 (1) (cm), 48.977 (2) (f), 767.41 (3) (am), 938.21 (5) (c), 938.32 (1) (c) 3., 938.355 (2) (b)
21 6., (2d) (bm), (6) (cm) and (6m) (cm), 938.357 (2v) (b), ^{and} 938.365 (2m) (a) 3., ~~and 938.38~~
22 ~~(5m) (e)~~ of the statutes first applies to an amended order granted on the effective
23 date of this subsection, notwithstanding that the original order was granted before
24 the effective date of this subsection.

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of the statutes
and the amendment of
sections 48.38(5m)(e) and
938.38(5m)(e)

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1 (9) TRANSITION PLAN. The treatment of section 48.648 of the statutes first
2 applies to a child who attains 18 years of age 90 days after the effective date of this
3 subsection or, if a child is subject to an order of the court assigned to exercise
4 jurisdiction under chapters 48 and 938 that terminates after the child attains 18
5 years of age, to an order that terminates 90 days after the effective date of this
6 subsection.

(5) (bm)

7 **SECTION 109. Effective dates.** This act takes effect on January 1, 2010, or on
8 the day after publication, except as follows:

(5) (bm)

9 (1) TREATMENT FOSTER HOMES. The amendment of sections 48.38 (4m) (b) and
10 (d) and (5m) (b) 1., 48.43 (5) (b) 3., 48.648, and 938.38 (4m) (b) and (d) and (5m) (b)
11 1. of the statutes and the repeal and recreation of sections 48.27 (3) (a) 1m. and (6),
12 48.357 (2m) (b) and (2r), 48.363 (1) (b) and (1m), 48.365 (2m) (ag), 48.38 (5) (b) and
13 (e) and (5m) (b), (c) 1., and (e), 48.42 (2g) (am), 48.427 (1m), 48.43 (5) (b) 1. and (5m),
14 767.41 (3) (c), 938.27 (3) (a) 1m. and (6), 938.357 (2r), 938.363 (1) (b) and (1m),
15 938.365 (2m) (ag), and 938.38 (5) (b) and (e) and (5m) (b), (c) 1., and (e), take effect
16 on the date state in the notice provided by the secretary of children and families and
17 published in the Wisconsin Administrative Register under section 48.62 (9) of the
18 statutes, as created by 2009 Wisconsin Act 28.

(2) and

(END OF INSERT)

(INSERT A-1)

or on the day
after publication,
whichever is later

Notice to relatives when child removed from home

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires that within 30 days after the removal of a child from the custody of the parent or parents of the child, a state must exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child, including any other adult relatives suggested by the parents, subject to exceptions due to family or domestic violence. The notice must do all of the following:

1. Specify that the child has been or is being removed from the custody of the parent or parents of the child.

2. Explain the options the relative has under federal, state, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice.

3. Describe the requirements to become a foster family home and the additional services and supports that are available for children placed in such a home.

This bill requires the juvenile court to request a child's parent to provide the names of three relatives of the child or other individuals 18 years of age or over whose homes the parent requests the juvenile court to consider as placements for the child. The juvenile court must request that information at the temporary physical custody hearing or, if that information has not been previously requested, at a dispositional hearing or change-in-placement hearing placing the child outside the parent's home. If the parent does not provide that information at the hearing, the agency must permit the parent to provide the information at a later date.

The juvenile court then must order the agency to conduct a diligent search in order to locate and provide notice of certain information specified in the bill to all of the relatives names by the parent and to all adult relatives of the child within 30 days after the hearing. The bill, for purposes of notification, defines "adult relative" as a grandparent, great-grandparent, aunt, uncle, brother, sister, half brother, or half sister of the child who has attained 18 years of age. The bill also permits the juvenile court to order the agency to notify any other individual whose home is recommended as a placement option by the parent. The agency may not provide notice to a person named by a parent or to an adult relative if the agency has reason to believe that it would be dangerous to the child or to the parent if the child were placed with that person or adult relative.

The bill requires the notice to include all of the following:

1. A statement that the child has been removed from the custody of the child's parent.

2. A statement that explains the options that the person notified has under state or federal law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice.

3. A description of the requirements to obtain a foster home license or to receive kinship care payments and of the additional services and supports that are available for children placed in a foster home or in the home of a person receiving those payments.

4. A statement advising the person notified that he or she may incur additional expenses if the child is placed in his or her home and that reimbursement for some of those expenses may be available.

5. The name and contact information of the agency that removed the child from the custody of the child's parent.

Placement with siblings

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires a state plan for foster care and adoption assistance to provide that reasonable efforts shall be made to do all of the following:

1. Place siblings removed from their home in the same foster care or adoptive placement, unless the state documents that such a joint placement would be contrary to the safety or well-being of any of the siblings.

2. In the case of siblings removed from the home who are not jointly placed, provide for frequent visitation or other ongoing interaction between the siblings, unless the state documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings.

This bill requires the permanency plan of a child who has been removed from the home and who has one or more siblings who have also been removed from the home to include a description of the efforts made to place the child in a placement that enables the sibling group to remain together and, if a decision is made not to place the child and his or her siblings in a joint placement, a statement as to why a joint placement would be contrary to the safety or well-being of the child or any of those siblings and a description of the efforts made to provide for frequent visitation or other ongoing interaction between the child and those siblings. If a decision is made not to provide for that visitation or interaction, the permanency plan must include a statement as to why that visitation or interaction would be contrary to the safety or well-being of the child or any of those siblings.

The bill also requires an agency, before placing for adoption a child who has one or more siblings who have been adopted or who have been placed for adoption, to make reasonable efforts to place the child for adoption with an adoptive parent or proposed adoptive parent of such a sibling, unless the agency determines that a joint placement would be contrary to the safety or well-being of the child or any of those siblings, in which case the agency must make reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the agency determines that such visitation or interaction would be contrary to the safety or well-being of the child or any of those siblings.

In addition the bill requires the juvenile court, when ordering a child who has one or more siblings who have been removed from the home, to be held in temporary physical custody or when ordering such a child to be placed outside the home under a dispositional order or a change-in-placement order, to include in the order a finding that reasonable efforts have been made to place the child in a placement that enables the sibling group to remain together, unless the juvenile court determines that a joint placement would be contrary to the safety or well-being of the child or any of those siblings, in which case the juvenile court must order the agency to make reasonable efforts to provide for frequent visitation or other ongoing interaction between the child and the siblings, unless the juvenile court determines that such visitation or interaction would be contrary to the safety or well-being of the child or any of those siblings.

from into temporary physical custody

Plan for transition to independent living

Under current law, a permanency plan for a child 15 years of age or over must include a description of the programs and services that are or will be provided to assist the child in preparing for the transition from out-of-home care to independent living.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires a state's case review system to include procedures to assure that during the 90-day period immediately prior to the date on which a child will attain 18 years of age the child is provided with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce supports and employment services, and is as detailed as the child may elect.

This bill requires the agency primarily responsible for providing services to a child who is placed in a foster home, group home, subsidized guardianship home, or residential care center for children and youth, or in the home of a relative other than a parent to provide the child with assistance and support in developing a plan for making the transition to independent living by no later than 90 days before the child attains 18 years of age or, if the child is under a juvenile court order that terminates after the child attains 18 years of age, by no later than 90 days before the order terminates. The plan must be personalized at the direction of the child, must be as detailed as the child directs, and must include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

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(INSERT A-2)

Termination of parental rights
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Termination of parental rights filing requirements

Under current law, if a child has been placed in an out-of-home placement for 15 of the most recent 22 months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, an agency or the district attorney, corporation counsel, or other appropriate official designated by the county board to prosecute TRB proceedings must file a TPR petition with respect to the child or, if a TPR petition with respect to the child has already been filed, must join in the petition.

This bill, for purposes of determining whether a child has been placed outside the home for 15 of the most recent 22 months, excludes any period during which the child's care was not eligible for reimbursement under Title IV-E of the federal Social Security Act.

Retroactive correction of order removing child from home

Under current law, an order removing a child from his or her home, whether that order is a temporary physical custody order, consent decree, dispositional order, change-in-placement order, extension of a dispositional order, sanction order, TPR order, guardianship order, or an order in an action affecting the family, for example, a divorce proceeding, must include a finding that continued placement of the child in his or her home would be contrary to the welfare of the child and a finding as to whether reasonable efforts have been made to prevent the removal of the child from

the home and to make it possible for the child to return safely home. Those findings must be made on a case-by-case basis based on circumstances specific to the child and the specific information on which those findings are based must be documented or referenced in the order. An amended order that retroactively corrects an earlier order that does not comply with those requirements is not sufficient to comply with those requirements.

This bill deletes the provision stating that an amended order that retroactively corrects an earlier order is not sufficient to comply with those requirements. Accordingly, the bill permits an amended order to retroactively correct an earlier order.

Reasonable efforts to achieve goals of permanency plan

Under current law, a juvenile court order placing a child outside the home must include a finding that reasonable efforts have been made to achieve the goals of the child's permanency plan. This bill requires that finding only if a permanency plan has previously been prepared for the child.

Informal disposition

Under current law, when information is referred to the juvenile court intake worker indicating that a child should be referred to the juvenile court as in need of protection or services, the intake worker may enter into an informal disposition with the child's parent, guardian, and legal custodian and, if the child is 12 years of age or over, the child. An informal disposition may provide that the child attend counseling and abide by certain obligations, but an informal disposition may not include any form of residential placement. This bill provides that an informal disposition may not include any form of out-of-home placement.

Confidentiality of records

Finally, the bill creates an exception to the confidentiality of agency and child abuse and neglect records so that the agency may disclose information to all of the following:

1. A relative of a child who is placed outside his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative.
2. A public or private agency in this state or any other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

(END OF INSERT)

Malaise, Gordon

From: Bachir, Julie S - DCF [Julie.Bachir@wisconsin.gov]
Sent: Tuesday, September 08, 2009 5:06 PM
To: Malaise, Gordon
Cc: Mitchell, Mark S - DCF
Subject: DCF Federal Legislation
Attachments: LRB2993.comments.1.doc

Hi Gordon,

Sorry this memo is a little later to you than I promised. Unless we hear otherwise from you, Mark and I will visit your office tomorrow at 1pm.

Thank you,

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

DEPARTMENT OF CHILDREN AND FAMILIES
Division of Safety and Permanence

Date: September 8, 2009
To: Gordon Malaise, Legislative Reference Bureau
From: Julie Bachir, Division of Safety and Permanence
Mark Mitchell, Office of Legal Counsel
Re: Federal Compliance Legislation

Below are comments regarding bill draft LRB 2993/1:

1. Fostering Connections Act: Independent Living Plan within 90 days before child ages out
 - a. Section 93: We would suggest creating the new section as 48.385, not 48.648, this is a more intuitive place for people to look for this provision
2. IV-E Requirements: Removing time spent in non-title IVE facility from 15 of the 22 month calculation.
 - a. Sections 65 and 79: Language would instruct the TPR calculation to depend on IV-E eligibility of the child, as opposed to the "eligibility" of the facility. We suggest the following language:
If the child has been placed outside of his or her home, as described in s. 48.365(1), for 15 of the most recent 22 months, **in a foster home under s. 48.62(1)(a), a treatment foster home under s. 48.62(1)(b), a group home under s. 48.625, a non-secure residential care center under s. 48.60, a non-secure shelter care facility under s. 938.22(7), except for any period during which the child...**
3. Child and Family Services Improvement Act: Court or review panel consultation with children (Section 59: 48.38(4m)(c) and similar sections)
 - a. The federal language does not get into detail about when consultation with a child's representative should be used. Also, in the interest of clarity, it might be better to structure that entire subsection as three basic options such as:
 - i. The court shall consult with the child, in a manner appropriate to the child's age and development based on the recommendation in (4)(i)
 - ii. If not possible to communicate directly with the child, court may take written or oral statement from the child's counsel, guardian ad litem, etc.
 - iii. Notwithstanding options i and ii, court may require that child be physically present at the hearing.
4. Safe and Timely Interstate Placement of Children Act
 - a. See section 25: Shouldn't this language also be in the more general (2)(b) section of 48.355?
5. Release of Information for Licensing purposes
 - a. Sections 96 and 100: Can we amend this to make more broad so that information can be released to license anyone caring for a child (not just for foster care or adoption)? *[Hold off on this one, Mark and I should discuss it one more time]*
 - b. Section 188: DELETE this section: We have no intention of opening juvenile delinquency records for licensing purposes.
6. Questions
 - a. We were confused as to why the language "If a hearing is held under this subdivision..." was removed in Section 5 (and similar sections).
 - b. Why was the language removed in Section 185?
 - c. Why was the nunc pro tunc language taken out of Section 4 (and similar sections)?

Malaise, Gordon

From: Bachir, Julie S - DCF [Julie.Bachir@wisconsin.gov]
Sent: Wednesday, September 09, 2009 2:56 PM
To: Malaise, Gordon
Cc: Mitchell, Mark S - DCF; Durkin, Therese A - DCF
Subject: Safe and Timely Placement Act

Hi Gordon,

Ok, we didn't check with Therese but took another look at the federal language regarding the requirement to take into consideration out of state placements. First, I have a couple more federal cites for you, but they don't go into any more detail than what we were looking at earlier. So the three cites for the law making the change are:

42 USC 671 (a) (15) (C)
42 USC 671 (a) (15) (E)(i)
42 USC 671 (a) (15) (F)

Based on this, we don't see the need for any of the additional statements to be made in the perm plan that we were talking about. And we don't think it should be limited to the concurrent planning section.

So, if your language (in Section 25) could be moved from the concurrent planning section (to 48.355(2)(b)?), and simplified to say that a placement consideration should not be excluded because it is out of state, then I think we should meet the requirements.

I'll call you in a few minutes to confirm this makes sense.

Thanks,

Julie S. Bachir
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Division of Safety and Permanence
Department of Children and Families
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