



# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## **RESEARCH APPENDIX -** **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 09/09/2008 (Per: GMM)



 Appendix A ... Pt. 06B of 09

 The 2007 drafting file for LRB-0174

has been transferred to the drafting file for

**2009 LRB-0150**

☛ This cover sheet, the final request sheet, and the final version of the 2007 draft were copied on yellow paper, and returned to the original 2005 drafting file.

☛ The attached 2007 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

**BILL**

1           **SECTION 79.** 48.32 (1) (c) 2. of the statutes is repealed.

2           **SECTION 80.** 48.32 (1) (c) 3. of the statutes is repealed.

3           **SECTION 81.** 48.33 (4) (d) of the statutes is created to read:

4           48.33 (4) (d) If the agency knows or has reason to know that the child is an  
5 Indian child, a description of any efforts undertaken to determine whether the child  
6 is an Indian child; specific information showing that continued custody of the child  
7 by the parent or Indian custodian is likely to result in serious emotional or physical  
8 damage to the child under s. 48.028 (4) (d) 1.; specific information showing that the  
9 county department, department in a county having a population of 500,000 or more,  
10 or agency primarily responsible for providing services to the child has made active  
11 efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that  
12 those efforts have proved unsuccessful; a statement as to whether the out-of-home  
13 care placement recommended is in compliance with the order of placement  
14 preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c); and, if the  
15 recommended placement is not in compliance with that order, specific information  
16 showing good cause for departing from that order. *as described in s. 48.028 (7) (c)*

17           **SECTION 82.** 48.335 (3j) of the statutes is created to read:

18           48.335 (3j) At hearings under this section involving an Indian child, if the  
19 agency, as defined in s. 48.38 (1) (a), is recommending placement of the Indian child  
20 in a foster home, treatment foster home, group home, or residential care center for  
21 children and youth or in the home of a relative other than a parent, the agency shall  
22 present as evidence specific information showing all of the following:

23           (a) That continued custody of the Indian child by the parent or Indian custodian  
24 is likely to result in serious emotional or physical damage to the Indian child under  
25 s. 48.028 (4) (d) 1.

**BILL**

1 (b) That the county department, the department in a county having a  
 2 population of 500,000 or more, or the agency primarily responsible for providing  
 3 services to the Indian child has made active efforts under s. 48.028 (4) (d) 2. to  
 4 prevent the breakup of the Indian family and that those efforts have proved  
 5 unsuccessful.

*as described in s. 48.028 (7) (e)*

6 (c) That the placement recommended is in compliance with the order of  
 7 placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) or, if that  
 8 placement is not in compliance with that order, good cause for departing from that  
 9 order.

*The court finds*

10 **SECTION 83.** 48.345 (3) (intro.) of the statutes is amended to read:

11 48.345 (3) (intro.) Designate Subject to sub. (3m), designate one of the following  
 12 as the placement for the child:

*unless ~~found~~ good cause as described in s. 48.028 (7) (e) for departing from that order*

13 **SECTION 84.** 48.345 (3m) of the statutes is created to read:

14 48.345 (3m) Subject to s. 48.028 (7) (c), if the child is an Indian child who is  
 15 being placed in an out-of-home care placement, as defined in s. 48.028 (2) (e),  
 16 designate one of the placements listed in s. 48.028 (7) (b) 1. to 4. as the placement for  
 17 the Indian child, in the order of preference listed.

18 **SECTION 85.** 48.355 (2) (b) 6v. of the statutes is created to read:

19 48.355 (2) (b) 6v. If the child is an Indian child who is placed outside the home,  
 20 a finding supported by clear and convincing evidence, including the testimony of one  
 21 or more qualified expert witnesses, that continued custody of the Indian child by the  
 22 parent or Indian custodian is likely to result in serious emotional or physical damage  
 23 to the child under s. 48.028 (4) (d) 1. and a finding supported by clear and convincing  
 24 evidence as to whether the county department, department in a county having a  
 25 population of 500,000 or more, or agency primarily responsible for providing services

**BILL**

1 under a court order has made active efforts under s. 48.028 (4) (d) 2. to prevent the  
2 breakup of the Indian family and that those efforts have proved unsuccessful.

3 **SECTION 86.** 48.355 (2) (d) of the statutes is amended to read:

4 48.355 (2) (d) The court shall provide a copy of a dispositional order relating  
5 to a child in need of protection or services to the child's parent, guardian, legal  
6 custodian, or trustee, to the child through the child's counsel or guardian ad litem  
7 and, to the child's court-appointed special advocate, and, if the child is an Indian  
8 child, to the Indian child's Indian custodian and tribe. The court shall provide a copy  
9 of a dispositional order relating to an unborn child in need of protection or services  
10 to the expectant mother, to the unborn child through the unborn child's guardian ad  
11 litem and, if the expectant mother is a child, to her, to the parent, guardian, legal  
12 custodian, or trustee of a child expectant mother, and, if the expectant mother is an  
13 Indian child or if the unborn child when born may be an Indian child, to the expectant  
14 mother's Indian custodian and tribe or to the Indian tribe in which the unborn child  
15 may be eligible for ~~membership~~ when born. *affiliation*

16 **SECTION 87.** 48.355 (2d) (b) 5. of the statutes is amended to read:

17 48.355 (2d) (b) 5. That the parent has been found under s. 48.13 (2m) to have  
18 relinquished custody of the child under ~~s. 48.195 (1) (a)~~ when the child was 72 hours  
19 old or younger, as evidenced by a final order of a court of competent jurisdiction  
20 making that finding.

21 **SECTION 88.** 48.355 (2d) (c) 1. of the statutes is renumbered 48.355 (2d) (c) and  
22 amended to read: *addition to*

23 48.355 (2d) (c) If the court finds that any of the circumstances specified in  
24 under par. (b) 1. to 5. applies with respect to a parent, the court shall hold a hearing  
25 under s. 48.38 (4m) within 30 days after the date of that finding to determine the

*not* The findings under this subdivision ~~and~~ the findings under subd 60  
except that for the sole purpose of determining ~~whether~~ whether the cost of  
providing care for an Indian child is eligible for reimbursement under 42 USC 671  
to 679 *b*, the findings under this subdivision and the findings under subd 60 shall be a

**BILL**

1 permanency plan for the child. ~~If a hearing is held under this subdivision, the agency~~  
 2 ~~responsible for preparing the permanency plan shall file the permanency plan with~~  
 3 ~~the court not less than 5 days before the date of the hearing.~~

4 **SECTION 89.** 48.355 (2d) (c) 2. of the statutes is repealed.

5 **SECTION 90.** 48.355 (2d) (c) 3. of the statutes is repealed.

6 **SECTION 91.** 48.357 (1) (am) 1. of the statutes is amended to read:

7 48.357 (1) (am) 1. If the proposed change in placement involves any change in  
 8 placement other than a change in placement specified in par. (c), the person or agency  
 9 primarily responsible for implementing the dispositional order, the district attorney,  
 10 or the corporation counsel shall cause written notice of the proposed change in  
 11 placement to be sent to the child, the parent, guardian, and legal custodian of the  
 12 child, any foster parent, treatment foster parent, or other physical custodian  
 13 described in s. 48.62 (2) of the child, the child's court-appointed special advocate,  
 14 and, if the child is an Indian child, the Indian child's Indian custodian and tribe. If  
 15 the child is the expectant mother of an unborn child under s. 48.133, written notice  
 16 shall also be sent to the unborn child by the unborn child's guardian ad litem. If the  
 17 change in placement involves an adult expectant mother is an adult of an unborn  
 18 child under s. 48.133, written notice shall be sent to the adult expectant mother and  
 19 the unborn child by the unborn child's guardian ad litem. The notice shall contain  
 20 the name and address of the new placement, the reasons for the change in placement,  
 21 a statement describing why the new placement is preferable to the present  
 22 placement, and a statement of how the new placement satisfies objectives of the  
 23 treatment plan ordered by the court.

24 **SECTION 92.** 48.357 (1) (am) 1g. of the statutes is created to read:

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*placement*  
*and if the proposed change in placement would change the Indian child's placement from a placement outside the home to another placement outside the home*

1 48.357 (1) (am) 1g. If the child is an Indian child, a notice under subd. 1. shall  
2 also contain specific information showing that continued custody of the Indian child  
3 by the parent or Indian custodian is likely to result in serious emotional or physical  
4 damage to the child under s. 48.028 (4) (d) 1., specific information showing that the  
5 agency primarily responsible for implementing the dispositional order has made  
6 active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family  
7 and that those efforts have proved unsuccessful, a statement as to whether the new  
8 placement is in compliance with the order of placement preference under s. 48.028  
9 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance  
10 with that order, specific information showing good cause *as described in s. 48.028 (7)(c)* for departing from that  
11 order.

*or until at least 25 days after receipt of the notice by the  
USO secretary of the interior*

12 **SECTION 93.** 48.357 (1) (am) 1m. of the statutes is created to read:  
13 48.357 (1) (am) 1m. If the child is an Indian child, notice under subd. 1. to the  
14 Indian child's parent, Indian custodian, and tribe shall be provided in the manner  
15 specified in s. 48.028 (4) (a). No hearing on the request may be held until at least 10  
16 days after receipt of the notice by the Indian child's parent, Indian custodian, and  
17 tribe. On request of the Indian child's parent, Indian custodian, or tribe, the court  
18 shall grant a continuance of up to 20 additional days to enable the requester to  
19 prepare for the hearing.

20 **SECTION 94.** 48.357 (1) (am) 2. of the statutes is renumbered 48.357 (1) (am)  
21 2. (intro.) and amended to read:

22 48.357 (1) (am) 2. Any person receiving the notice under subd. 1. or notice of  
23 a specific placement under s. 48.355 (2) (b) 2., other than a court-appointed special  
24 advocate, may obtain a hearing on the matter by filing an objection with the court  
25 within 10 days after receipt of the notice. Placements Except as provided in subd.

**BILL**

**SECTION 94**

1 2m., placements may not be changed until 10 days after that notice is sent to the  
2 court unless written waivers of objection are signed as follows:

3 a. By the parent, guardian, or legal custodian and, or Indian custodian, the  
4 child, if 12 years of age or over, or and the child's tribe, if the child is an Indian child.

5 b. By the child expectant mother, if 12 years of age or over, her parent, guardian,  
6 or legal custodian and, or Indian custodian, the unborn child by the unborn child's  
7 guardian ad litem, or and the child expectant mother's tribe, if she is an Indian child.

8 c. By the adult expectant mother and the unborn child by the unborn child's  
9 guardian ad litem, ~~sign written waivers of objection, except that changes.~~

10 2m. Changes in placement that were authorized in the dispositional order may  
11 be made immediately if notice is given as required under subd. 1. In addition, a  
12 hearing is not required for placement changes authorized in the dispositional order  
13 except when an objection filed by a person who received notice alleges that new  
14 information is available that affects the advisability of the court's dispositional order.

15 **SECTION 95.** ~~48.357 (1) (am) 3. of the statutes is amended to read:~~ <sup>As affected by 2007 Wisconsin Act 26,</sup>

16 48.357 (1) (am) 3. If the court changes the child's placement from a placement  
17 outside the home to another placement outside the home, the change in placement  
18 order shall contain ~~one of the statements specified in~~ <sup>(plan) the applicable order and specified under</sup> sub. (2v) (a) 2. If the court  
19 changes the placement of an Indian child from a placement outside the home to  
20 another placement outside the home, the change in placement order shall, in  
21 addition, comply with the order of placement preference under s. 48.028 (7) (b) or, if  
22 applicable, s. 48.028 (7) (c) and contain the findings under sub. (2v) (a) 4.

23 **SECTION 96.** 48.357 (1) (c) 1m. of the statutes is created to read:

24 48.357 (1) (c) 1m. If the child is an Indian child, a request under subd. 1. shall  
25 also contain specific information showing that continued custody of the Indian child

unless the court finds good cause as described in s. 48.028 (7) (c),  
for departing from that order.

and the applicable placement order sub (2v)(a)2

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**BILL** <sup>^</sup> as described in s. 48.028 (7)(c)

1 by the parent or Indian custodian is likely to result in serious emotional or physical  
 2 damage to the child under s. 48.028 (4) (d) 1., specific information showing that the  
 3 agency primarily responsible for implementing the dispositional order has made  
 4 active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family  
 5 and that those efforts have proved unsuccessful, a statement as to whether the new  
 6 placement is in compliance with the order of placement preference under s. 48.028  
 7 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance  
 8 with that order, specific information showing good cause for departing from that  
 9 order.

10 **SECTION 97.** 48.357 (1) (c) 2. of the statutes is amended to read:  
 11 48.357 (1) (c) 2. The court shall hold a hearing prior to ordering any change in  
 12 placement requested under subd. 1. Not less than 3 days prior to the hearing, the  
 13 court shall provide notice of the hearing, together with a copy of the request for the  
 14 change in placement, to the child, the parent, guardian, and legal custodian of the  
 15 child, the child's court-appointed special advocate, and all parties that are bound by  
 16 the dispositional order, and, if the child is an Indian child, the Indian child's Indian  
 17 custodian and tribe. If all parties consent, the court may proceed immediately with  
 18 the hearing.

or until at least 25 days after receipt of the notice by the USDO secretary of the interior

19 **SECTION 98.** 48.357 (1) (c) 2m. of the statutes is created to read:  
 20 48.357 (1) (c) 2m. If the child is an Indian child, notice under subd. 2. to the  
 21 Indian child's parent, Indian custodian, and tribe shall be provided in the manner  
 22 specified in s. 48.028 (4) (a). No hearing on the request may be held until at least 10  
 23 days after receipt of the notice by the Indian child's parent, Indian custodian, and  
 24 tribe. On request of the Indian child's parent, Indian custodian, or tribe, the court

**BILL**

*(, as affected by 2007 Wisconsin Act 20,  
The court finds*

1 shall grant a continuance of up to 20 additional days to enable the requester to  
2 prepare for the hearing.

*unless there is good cause, as described in s. 48.028 (7)(b), for departing from that order.*

3 **SECTION 99.** ~~48.357 (1) (c) 3.~~ of the statutes is amended to read:

4 ~~48.357 (1) (c) 3.~~ If the court changes the child's placement from a placement in  
5 the child's home to a placement outside the child's home, the change in placement  
6 order shall contain the findings specified in under sub. (2v) (a) 1., ~~one of the~~  
7 ~~statements~~ applicable order specified in under sub. (2v) (a) 2., and, if in addition the court finds that  
8 any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with  
9 respect to a parent, the determination specified in under sub. (2v) (a) 3. ~~If the court~~  
10 ~~changes the placement of an Indian child from a placement in the child's home to a~~  
11 ~~placement outside the child's home, the change in placement order shall, in addition,~~  
~~comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable,~~  
~~s. 48.028 (7) (c) and contain the findings under sub. (2v) (a) 4.~~

*plca  
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13*

*1.) The applicable order is the order under s. 48.028 (a)*

14 **SECTION 100.** 48.357 (2m) (a) of the statutes is amended to read:

15 48.357 (2m) (a) The child, the parent, guardian, or legal custodian, or Indian  
16 custodian of the child, the expectant mother, the unborn child by the unborn child's  
17 guardian ad litem, or any person or agency primarily bound by the dispositional  
18 order, other than the person or agency responsible for implementing the order, may  
19 request a change in placement under this paragraph. The request shall contain the  
20 name and address of the new placement requested and shall state what new  
21 information is available that affects the advisability of the current placement. If the  
22 proposed change in placement would change the placement of a child placed in the  
23 child's home to a placement outside the child's home, the request shall also contain  
24 specific information showing that continued placement of the child in the home  
25 would be contrary to the welfare of the child and, unless any of the circumstances

*Insert 58-13*

**BILL**

1 specified in under s. 48.355 (2d) (b) 1. to 5. applies, specific information showing that  
2 the agency primarily responsible for implementing the dispositional order has made  
3 reasonable efforts to prevent the removal of the child from the home, while assuring  
4 that the child's health and safety are the paramount concerns. The request shall be  
5 submitted to the court. ~~In addition, the~~ The court may also propose a change in  
6 placement on its own motion.

or would change the placement of an Indian child placed outside the home to another placement outside the home

7 **SECTION 101.** 48.357 (2m) (am) of the statutes is created to read:

8 48.357 (2m) (am) If the proposed change of placement would change the  
9 placement of an Indian child placed in the <sup>Indian</sup> child's home to a placement outside the

Indian

10 <sup>Indian</sup> child's home, a request under par. (a) shall also contain specific information showing

11 that continued custody of the Indian child by the parent or Indian custodian is likely  
12 to result in serious emotional or physical damage to the child under s. 48.028 (4) (d)  
13 1., specific information showing that the agency primarily responsible for  
14 implementing the dispositional order has made active efforts under s. 48.028 (4) (d)  
15 2. to prevent the breakup of the Indian family and that those efforts have proved  
16 unsuccessful, a statement as to whether the new placement is in compliance with the  
17 order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c)  
18 and, if the new placement is not in compliance with that order, specific information

19 showing good cause <sup>(e)</sup> for departing from that order. <sup>(e)</sup> as described in s. 48.028 (7) (e)

20 **SECTION 102.** 48.357 (2m) (b) of the statutes is amended to read:

21 48.357 (2m) (b) The court shall hold a hearing ~~on the matter~~ prior to ordering  
22 any change in placement requested or proposed under par. (a) if the request states  
23 that new information is available that affects the advisability of the current  
24 placement, unless. A hearing is not required if the requested or proposed change in  
25 placement ~~involves any change in placement other than~~ does not involve a change

## BILL

1 in placement of a child placed in the child's home to a placement outside the child's  
 2 home and, written waivers of objection to the proposed change in placement are  
 3 signed by all persons entitled to receive notice under sub. (1) (am) 1. this paragraph,  
 4 other than a court-appointed special advocate, and the court approves. If a hearing  
 5 is scheduled, not less than 3 days before the hearing the court shall notify the child,  
 6 the parent, guardian, and legal custodian of the child, any foster parent, treatment  
 7 foster parent, or other physical custodian described in s. 48.62 (2) of the child, the  
 8 child's court-appointed special advocate, all parties who are bound by the  
 9 dispositional order, and, if the child is an Indian child, the Indian child's Indian  
 10 custodian and tribe. If the child is the expectant mother of an unborn child under  
 11 s. 48.133, the court shall also notify the unborn child by the unborn child's guardian  
 12 ad litem, ~~or.~~ If the change in placement involves an adult expectant mother of an  
 13 unborn child under s. 48.133, the court shall notify the adult expectant mother, the  
 14 unborn child by the unborn child's guardian ad litem, and all parties who are bound  
 15 by the dispositional order, at least 3 days prior to the hearing. A copy of the request  
 16 or proposal for the change in placement shall be attached to the notice. If all of the  
 17 parties consent, the court may proceed immediately with the hearing (child's)

18 SECTION 103. 48.357 (2m) (bm) of the statutes is created to read:

19 48.357 (2m) (bm) If the ~~proposed change in placement would change the~~  
 20 ~~placement of an Indian child placed in the child's home to a placement outside the~~  
 21 ~~child's home~~, notice under par. (b) to the Indian child's parent, Indian custodian, and  
 22 tribe shall be provided in the manner specified in s. 48.028 (4) (a). No hearing on the  
 23 request or proposal may be held until at least 10 days after receipt of the notice by  
 24 the Indian child's parent, Indian custodian, and tribe.) On request of the Indian

or until at least 25 days after receipt of the notice by the  
USDO secretary of the interior

**BILL**

~~or from a placement outside the Indian child's home to another placement outside the Indian child's home~~

child's parent, Indian custodian, or tribe, the court shall grant a continuance of up to 20 additional days to enable the requester to prepare for the hearing.

~~SECTION 104. 48.357 (2m) (c) of the statutes is amended to read:~~

~~48.357 (2m) (c) If the court changes the child's placement from a placement in the child's home to a placement outside the child's home, the change in placement order shall contain the findings specified in under sub. (2v) (a) 1. one of the applicable orders statements specified in under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination specified in under sub. (2v) (a) 3. If the court changes the placement of an Indian child from a placement in the child's home to a placement outside the child's home, the change in placement order shall, in addition, comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and contain the findings under sub. (2v) (a) 4.~~

**SECTION 105.** 48.357 (2v) (a) 4. of the statutes is created to read:

48.357 (2v) (a) 4. If the change in placement order changes an Indian child's placement from a placement in the Indian child's home to a placement outside the Indian child's home, a finding supported by clear and convincing evidence, including the testimony of one or more qualified expert witnesses, that continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child under s. 48.028 (4) (d) 1. and a finding supported by clear and convincing evidence that the agency primarily responsible for implementing the dispositional order has made active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that those efforts have proved unsuccessful.

or from a placement outside the ~~the~~ Indian child's home to another placement outside the Indian child's home

Enact  
61-13

plan) If the court changes the child's placement from a placement outside the home to another placement outside the home, the change in placement order shall contain the findings specified in under sub. (2v) (a) 1. one of the applicable orders statements specified in under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the determination specified in under sub. (2v) (a) 3. If the court changes the placement of an Indian child from a placement in the child's home to a placement outside the child's home, the change in placement order shall, in addition, comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c) and contain the findings under sub. (2v) (a) 4.

1007 The findings under sub. (2v) (a) 1. shall be in addition to the findings under sub. (2v) (a) 1. in any case that for purposes of determining whether the cost of providing care for an Indian child is eligible for reimbursement under the law to be applied by the findings under this administration. The findings under sub. (2v) (a) 1. shall be considered to be the same findings as the findings under sub. (2v) (a) 1. in any case that for purposes of determining whether the cost of providing care for an Indian child is eligible for reimbursement under the law to be applied by the findings under this administration.

**BILL**

1           **SECTION 106.** 48.357 (2v) (c) 1. of the statutes is renumbered 48.357 (2v) (c) and  
2 amended to read:

3           48.357 (2v) (c) If the court finds under par. (a) 3. that any of the circumstances  
4 ~~specified in under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the court~~  
5 ~~shall hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding~~  
6 ~~to determine the permanency plan for the child. If a hearing is held under this~~  
7 ~~subdivision, the agency responsible for preparing the permanency plan shall file the~~  
8 ~~permanency plan with the court not less than 5 days before the date of the hearing.~~

9           **SECTION 107.** 48.357 (2v) (c) 2. of the statutes is repealed.

10          **SECTION 108.** 48.357 (2v) (c) 3. of the statutes is repealed.

11          **SECTION 109.** 48.363 (1) (a) of the statutes is amended to read:

12          48.363 (1) (a) A child, the child's parent, guardian ~~or~~, legal custodian, or Indian  
13 custodian, an expectant mother, an unborn child by the unborn child's guardian ad  
14 litem, any person or agency bound by a dispositional order, or the district attorney  
15 or corporation counsel in the county in which the dispositional order was entered  
16 may request a revision in the order that does not involve a change in placement,  
17 including a revision with respect to the amount of child support to be paid by a  
18 parent, ~~or the.~~ The court may ~~on its own motion~~ also propose such a revision. The  
19 request or court proposal shall set forth in detail the nature of the proposed revision  
20 and what new information is available that affects the advisability of the court's  
21 disposition. The request or court proposal shall be submitted to the court. The court  
22 shall hold a hearing on the matter prior to any revision of the dispositional order if  
23 the request or court proposal indicates that new information is available which  
24 affects the advisability of the court's dispositional order, unless written waivers of

**BILL**

1 objections to the revision are signed by all parties entitled to receive notice and the  
2 court approves.

3 **SECTION 110.** 48.363 (1) (b) of the statutes is amended to read:

4 48.363 (1) (b) If a hearing is held, at least 3 days before the hearing the court  
5 shall notify the child, the child's parent, guardian, and legal custodian, all parties  
6 bound by the dispositional order, the child's foster parent, treatment foster parent,  
7 or other physical custodian described in s. 48.62 (2), the child's court-appointed  
8 special advocate, the district attorney or corporation counsel in the county in which  
9 the dispositional order was entered, and, if the child is an Indian child, the Indian  
10 child's Indian custodian and tribe. If the child is the expectant mother of an unborn  
11 child under s. 48.133, the court shall also notify the unborn child by the unborn  
12 child's guardian ad litem; ~~or. If the proceeding involves an adult expectant mother~~  
13 of an unborn child under s. 48.133, the court shall notify the adult expectant mother,  
14 the unborn child through the unborn child's guardian ad litem, all parties bound by  
15 the dispositional order, and the district attorney or corporation counsel in the county  
16 in which the dispositional order was entered, at least 3 days prior to the hearing. A  
17 copy of the request or proposal shall be attached to the notice. If all parties consent,  
18 the court may proceed immediately with the hearing. No revision may extend the  
19 effective period of the original order.

20 **SECTION 111.** 48.365 (1m) of the statutes is amended to read:

21 48.365 (1m) The parent, child, guardian, legal custodian, Indian custodian,  
22 expectant mother, unborn child by the unborn child's guardian ad litem, any person  
23 or agency bound by the dispositional order, the district attorney or corporation  
24 counsel in the county in which the dispositional order was entered, or the court on  
25 its own motion, may request an extension of an order under s. 48.355 including an

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1 order under s. 48.355 that was entered before the child was born. The request shall  
2 be submitted to the court ~~which~~ that entered the order. ~~No~~ An order under s. 48.355  
3 may be extended ~~except~~ only as provided in this section.

4 **SECTION 112.** 48.365 (2) of the statutes is amended to read:

5 48.365 (2) No order may be extended without a hearing. The court shall ~~notify~~  
6 provide notice of the time and place of the hearing to the child, the child's parent,  
7 guardian, and legal custodian, all the parties present at the original hearing, the  
8 child's foster parent, treatment foster parent or other physical custodian described  
9 in s. 48.62 (2), the child's court-appointed special advocate, the district attorney or  
10 corporation counsel in the county in which the dispositional order was entered and,  
11 if the child is an Indian child, the Indian child's Indian custodian and tribe. If the  
12 child is an expectant mother of an unborn child under s. 48.133, the court shall also  
13 notify the unborn child by the unborn child's guardian ad litem, or. If the extension  
14 hearing involves an adult expectant mother of an unborn child under s. 48.133, the  
15 court shall notify the adult expectant mother, the unborn child through the unborn  
16 child's guardian ad litem, all the parties present at the original hearing, and the  
17 district attorney or corporation counsel in the county in which the dispositional order  
18 was entered, of the time and place of the hearing.

19 **SECTION 113.** 48.365 (2g) (b) 4. of the statutes is created to read:

20 48.365 (2g) (b) 4. If the child is an Indian child who is placed outside the home,  
21 specific information showing that active efforts under s. 48.028 (4) (d) 2. have been  
22 made to prevent the breakup of the Indian family and that those efforts have proved  
23 unsuccessful.

24 **SECTION 114.** 48.365 (2m) (a) 1. of the statutes is amended to read:

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1           48.365 (2m) (a) 1. Any party may present evidence relevant to the issue of  
2 extension. If the child is placed outside of his or her home, the person or agency  
3 primarily responsible for providing services to the child shall present as evidence  
4 specific information showing that the person or agency has made reasonable efforts  
5 to achieve the goal of the child's permanency plan, unless return of the child to the  
6 home is the goal of the permanency plan and any of the circumstances ~~specified in~~  
7 under s. 48.355 (2d) (b) 1. to 5. applies. If an Indian child is placed outside the home,  
8 the person or agency primarily responsible for providing services to the Indian child  
9 shall also present as evidence specific information showing that the person or agency  
10 has made active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian  
11 family and that those efforts have proved unsuccessful.

12           1m. The judge shall make findings of fact and conclusions of law based on the  
13 evidence. The findings of fact shall include a finding as to whether reasonable efforts  
14 were made by the agency primarily responsible for providing services to the child to  
15 achieve the goal of the child's permanency plan, unless return of the child to the home  
16 is the goal of the permanency plan and the judge finds that any of the circumstances  
17 ~~specified in~~ under s. 48.355 (2d) (b) 1. to 5. applies. If the child is an Indian child who  
18 is placed outside the home, the findings of fact shall also include a finding as to  
19 whether active efforts under s. 48.028 (4) (d) 2. were made to prevent the breakup  
20 of the Indian family and as to whether those efforts have proved unsuccessful. An  
21 order shall be issued under s. 48.355.

22           **SECTION 115.** 48.365 (2m) (a) 3. of the statutes is amended to read:

23           48.365 (2m) (a) 3. The judge shall make the findings ~~specified in~~ under subd.  
24 ~~1.~~ 1m. relating to reasonable efforts to achieve the goal of the child's permanency plan  
25 and the findings ~~specified in~~ under subd. 2. on a case-by-case basis based on

**BILL****SECTION 115**

1 circumstances specific to the child and shall document or reference the specific  
2 information on which those findings are based in the order issued under s. 48.355.  
3 An order that merely references subd. 1. 1m. or 2. without documenting or  
4 referencing that specific information in the order or an amended order that  
5 retroactively corrects an earlier order that does not comply with this subdivision is  
6 not sufficient to comply with this subdivision.

7 **SECTION 116.** 48.365 (2m) (ad) 1. of the statutes is renumbered 48.365 (2m) (ad)  
8 and amended to read:

9 48.365 (2m) (ad) If the judge finds that any of the circumstances specified in  
10 under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the judge shall hold  
11 a hearing under s. 48.38 (4m) within 30 days after the date of that finding to  
12 determine the permanency plan for the child. ~~If a hearing is held under this~~  
13 ~~subdivision, the agency responsible for preparing the permanency plan shall file the~~  
14 ~~permanency plan with the court not less than 5 days before the date of the hearing.~~

15 **SECTION 117.** 48.365 (2m) (ad) 2. of the statutes is repealed.

16 **SECTION 118.** 48.365 (2m) (ag) of the statutes is amended to read:

17 48.365 (2m) (ag) The court shall give a foster parent, treatment foster parent,  
18 or other physical custodian described in s. 48.62 (2) who is notified of a hearing under  
19 ~~par. (ad) 2. or~~ sub. (2) an opportunity to be heard at the hearing by permitting the  
20 foster parent, treatment foster parent, or other physical custodian to make a written  
21 or oral statement during the hearing, or to submit a written statement prior to the  
22 hearing, relevant to the issue of extension. A foster parent, treatment foster parent,  
23 or other physical custodian ~~described in s. 48.62 (2)~~ who receives notice of a hearing  
24 under ~~par. (ad) 2. or~~ sub. (2) and an opportunity to be heard under this paragraph

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a statement as to whether there is good cause,  
as described in s. 48.028 (7)(c)↑

1 does not become a party to the proceeding on which the hearing is held solely on the  
2 basis of receiving that notice and having the opportunity to be heard.

3 **SECTION 119.** 48.38 (4) (i) of the statutes is created to read:

4 48.38 (4) (i) If the child is an Indian child, all of the following:

5 1. The name, address, and telephone number of the Indian child's Indian  
6 custodian and tribe.

7 2. A description of the remedial services and rehabilitation programs offered  
8 under s. 48.028 (4) (d) 2. in an effort to prevent the breakup of the Indian family.

9 3. A statement as to whether the Indian child's placement is in compliance with  
10 the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028

11 (7) (c) and, if the placement is not in compliance with that order, an explanation for  
12 the departure from that order.

13 **SECTION 120.** 48.38 (4m) of the statutes is created to read:

14 48.38 (4m) PERMANENCY PLAN DETERMINATION HEARING. (a) If in a proceeding  
15 under s. 48.21, 48.32, 48.355, 48.357, or 48.365 the court finds that any of the  
16 circumstances under s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the  
17 court shall hold a hearing within 30 days after the date of that finding to determine  
18 the permanency plan for the child. If a hearing is held under this paragraph, the  
19 agency responsible for preparing the permanency plan shall file the permanency  
20 plan with the court not less than 5 days before the hearing.

21 (b) At least 10 days before the hearing the court shall notify the child, any  
22 parent, guardian, and legal custodian of the child, and any foster parent, treatment  
23 foster parent, or other physical custodian described in s. 48.62 (2) of the child, of the  
24 time, place, and purpose of the hearing.

child is an  
and, if the child is an Indian child, the Indian child's  
Indian custodian and tribe

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*or until at least 25 days after receipt of the notice by the USDO secretary of the interior*

*after*

1 (c) If the court knows or has reason to know that the child is an Indian child,  
 2 notice under par. (b) to the Indian child's parent, ~~shall~~ <sup>Indian custodian, and tribe</sup> be provided in the manner  
 3 specified in s. 48.028 (4) (a). ~~In like manner, the court shall also notify the Indian~~  
 4 ~~child's Indian custodian and tribe.~~ No hearing may be held under par. (a) until at  
 5 least 10 days after receipt of the notice by the Indian child's parent, Indian custodian,  
 6 and tribe. On request of the Indian child's parent, Indian custodian, or tribe, the  
 7 court shall grant a continuance of up to 20 additional days to enable the requester  
 8 to prepare for the hearing.

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

**SECTION 121.** 48.38 (5) (b) of the statutes is amended to read:

18  
 19 48.38 (5) (b) The court or the agency shall notify ~~the parents of the child, the~~  
 20 ~~child, if he or she is 12 years of age or older, and; the child's parent, guardian, and~~  
 21 legal custodian; the child's foster parent, the child's treatment foster parent, the  
 22 operator of the facility in which the child is living, or the relative with whom the child  
 23 is living; and, if the child is an Indian child, the Indian child's Indian custodian and  
 24 tribe of the date, time, and place of the review, of the issues to be determined as part  
 25 of the review, and of the fact that they may have an opportunity to be heard at the

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1 review by submitting written comments not less than 10 working days before the  
2 review or by participating at the review. The court or agency shall notify the person  
3 representing the interests of the public, the child's counsel, the child's guardian ad  
4 litem, and the child's court-appointed special advocate of the date of the review, of  
5 the issues to be determined as part of the review, and of the fact that they may submit  
6 written comments not less than 10 working days before the review. The notices  
7 under this paragraph shall be provided in writing not less than 30 days before the  
8 review and copies of the notices shall be filed in the child's case record.

9 **SECTION 122.** 48.38 (5) (bm) of the statutes is created to read:

10 48.38 (5) (bm) If the child is an Indian child, notice under par. (b) to the Indian  
11 child's parent, Indian custodian, and tribe shall be provided in the manner specified  
12 in s. 48.028 (4) (a). No review may be held until at least 10 days after receipt of the  
13 notice by the Indian child's parent, Indian custodian, and tribe. On request of the  
14 Indian child's parent, Indian custodian, or tribe, the court shall grant a continuance  
15 of up to 20 additional days to enable the requester to prepare for the review.

16 **SECTION 123.** 48.38 (5) (c) 8. of the statutes is created to read:

17 48.38 (5) (c) 8. If the child is an Indian child, whether active efforts under s.  
18 48.028 (4) (d) 2. were made by the agency to prevent the breakup of the Indian family,  
19 whether those efforts have proved unsuccessful, whether the Indian child's  
20 placement is in compliance with the order of placement preference under s. 48.028  
21 (7) (b) or, if applicable, s. 48.028 (7) (c), and, if the placement is not in compliance with  
22 that order, whether there is good cause for depart<sup>e</sup>ing from that order.

23 **SECTION 124.** 48.38 (5) (d) of the statutes is amended to read:

24 48.38 (5) (d) Notwithstanding s. 48.78 (2) (a), the agency that prepared the  
25 permanency plan shall, at least 5 days before a review by a review panel, provide to

5 as described in s. 48.028 (7)(e) ^

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1 each person appointed to the review panel, the child's parent, guardian, and legal  
2 custodian, the person representing the interests of the public, the child's counsel, the  
3 child's guardian ad litem ~~and~~, the child's court-appointed special advocate, and, if  
4 the child is an Indian child, the Indian child's Indian custodian and tribe a copy of  
5 the permanency plan and any written comments submitted under par. (b).  
6 Notwithstanding s. 48.78 (2) (a), a person appointed to a review panel, the person  
7 representing the interests of the public, the child's counsel, the child's guardian ad  
8 litem ~~and~~, the child's court-appointed special advocate, and, if the child is an Indian  
9 child, the Indian child's Indian custodian and tribe may have access to any other  
10 records concerning the child for the purpose of participating in the review. A person  
11 permitted access to a child's records under this paragraph may not disclose any  
12 information from the records to any other person.

13 **SECTION 125.** 48.38 (5) (e) of the statutes is amended to read:

14 48.38 (5) (e) Within 30 days, the agency shall prepare a written summary of  
15 the determinations under par. (c) and shall provide a copy to the court that entered  
16 the order~~;~~; the child or the child's counsel or guardian ad litem~~;~~; the person  
17 representing the interests of the public~~;~~; the child's parent ~~or~~, guardian, or legal  
18 custodian; the child's court-appointed special advocate ~~and~~; the child's foster parent,  
19 the child's treatment foster parent, or the operator of the facility where the child is  
20 living; and, if the child is an Indian child, the Indian child's Indian custodian and  
21 tribe.

22 **SECTION 126.** 48.38 (5m) (b) of the statutes is amended to read:

23 48.38 (5m) (b) Not less than 30 days before the date of the hearing, the court  
24 shall notify the child; the child's parent, guardian, and legal custodian; the child's  
25 foster parent or treatment foster parent, the operator of the facility in which the child

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1 is living, or the relative with whom the child is living; the child's counsel, the child's  
2 guardian ad litem, and the child's court-appointed special advocate; the agency that  
3 prepared the permanency plan; and the person representing the interests of the  
4 public; and, if the child is an Indian child, the Indian child's Indian custodian and  
5 tribe of the date, time, and place of the hearing.

6 **SECTION 127.** 48.38 (5m) (bm) of the statutes is created to read:

7 48.38 (5m) (bm) If the child is an Indian child, notice under par. (b) to the Indian  
8 child's parent, Indian custodian, and tribe shall be provided in the manner specified  
9 in s. 48.028 (4) (a). No hearing under par. (a) may be held until at least 10 days after  
10 receipt of the notice by the Indian child's parent, Indian custodian, and tribe. On  
11 request of the Indian child's parent, Indian custodian, or tribe, the court shall grant  
12 a continuance of up to 20 additional days to enable the requester to prepare for the  
13 hearing.

14 **SECTION 128.** 48.38 (5m) (d) of the statutes is amended to read:

15 48.38 (5m) (d) At least 5 days before the date of the hearing the agency that  
16 prepared the permanency plan shall provide a copy of the permanency plan and any  
17 written comments submitted under par. (c) to the court, to the child's parent,  
18 guardian, and legal custodian, to the person representing the interests of the public,  
19 to the child's counsel or guardian ad litem, and to the child's court-appointed special  
20 advocate, and, if the child is an Indian child, to the Indian child's Indian custodian  
21 and tribe. Notwithstanding s. 48.78 (2) (a), the person representing the interests of  
22 the public, the child's counsel or guardian ad litem, and the child's court-appointed  
23 special advocate, and, if the child is an Indian child, the Indian child's Indian  
24 custodian and tribe may have access to any other records concerning the child for the  
25 purpose of participating in the review. A person permitted access to a child's records

or until at least 25 days after  
receipt of the notice by the  
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1 under this paragraph may not disclose any information from the records to any other  
2 person.

3 **SECTION 129.** 48.38 (5m) (e) of the statutes is amended to read:

4 48.38 (5m) (e) After the hearing, the court shall make written findings of fact  
5 and conclusions of law relating to the determinations under sub. (5) (c) and shall  
6 provide a copy of those findings of fact and conclusions of law to the child; the child's  
7 parent, guardian, and legal custodian; the child's foster parent or treatment foster  
8 parent, the operator of the facility in which the child is living, or the relative with  
9 whom the child is living; the child's court-appointed special advocate; the agency  
10 that prepared the permanency plan; and the person representing the interests of the  
11 public; and, if the child is an Indian child, the Indian child's Indian custodian and  
12 tribe. The court shall make the findings specified in sub. (5) (c) 7. on a case-by-case  
13 basis based on circumstances specific to the child and shall document or reference  
14 the specific information on which those findings are based in the findings of fact and  
15 conclusions of law prepared under this paragraph. Findings of fact and conclusions  
16 of law that merely reference sub. (5) (c) 7. without documenting or referencing that  
17 specific information in the findings of fact and conclusions of law or amended  
18 findings of fact and conclusions of law that retroactively correct earlier findings of  
19 fact and conclusions of law that do not comply with this paragraph are not sufficient  
20 to comply with this paragraph.

21 **SECTION 130.** 48.41 (2) (e) of the statutes is created to read:

22 48.41 (2) (e) In the case of an Indian child, the consent is given as provided in  
23 s. 48.028 (5) (b).

24 **SECTION 131.** 48.415 (1m) of the statutes is amended to read:

**BILL**

1 ~~48.415 (1m) RELINQUISHMENT. Relinquishment, which shall be established by~~  
 2 ~~proving that a court of competent jurisdiction has found under s. 48.13 (2m) that the~~  
 3 ~~parent has relinquished custody of the child under s. 48.195 (1) (a) when the child~~  
 4 ~~was 72 hours old or younger.~~

5 **SECTION 132.** 48.415 (2) (a) 2. a. of the statutes is amended to read:

6 48.415 (2) (a) 2. a. That the agency responsible for the care of the child and the  
 7 family or of the unborn child and expectant mother has made a reasonable effort to  
 8 provide the services ordered by the court. In this subdivision, "reasonable effort"  
 9 means an earnest and conscientious effort to take good faith steps to provide the  
 10 services ordered by the court ~~which that~~ takes into consideration the characteristics  
 11 of the parent or child or of the expectant mother or child, the level of cooperation of  
 12 the parent or expectant mother, and other relevant circumstances of the case.

13 **SECTION 133.** 48.415 (2) (a) 2. b. of the statutes is amended to read:

14 48.415 (2) (a) 2. b. That In the case of an Indian child, that the agency  
 15 responsible for the care of the child and the family or of the unborn child and  
 16 expectant mother has made a reasonable effort active efforts under s. 48.028 (4) (e)  
 17 to provide the services ordered by the court.

18 **SECTION 134.** 48.417 (2) (cm) of the statutes is created to read:

19 48.417 (2) (cm) In the case of an Indian child, the agency primarily responsible  
 20 for providing services to the Indian child and the family under a court order, if  
 21 required under s. 48.355 (2) (b) 6v. to make active efforts under s. 48.028 (4) (d) 2. to  
 22 prevent the breakup of the Indian family, has not provided to the Indian child's  
 23 family, consistent with the time period in the child's permanency plan, the services  
 24 necessary to prevent the breakup of the Indian family.

25 **SECTION 135.** 48.42 (1) (d) of the statutes is amended to read:

Insert  
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1 48.42 (1) (d) A statement of whether the child may be subject to the federal  
2 ~~Indian child welfare act~~ Child Welfare Act, 25 USC 1911 to 1963, and, if the child may  
3 be subject to that act, the names of the child's Indian custodian, if any, and tribe, if  
4 known.

3  
Insert  
74-4  
7

5 **SECTION 136.** 48.42 (1) ~~(e)~~ of the statutes is created to read:

6 48.42 (1) ~~(e)~~ If the child is an Indian child, reliable and credible information  
7 showing that continued custody of the ~~child~~ <sup>Indian</sup> by the ~~child's~~ <sup>Indian</sup> parent or Indian custodian  
8 is likely to result in serious emotional or physical damage to the ~~child~~ <sup>Indian</sup> under s. 48.028  
9 (4) (e) 1. and reliable and credible information showing that the agency has made  
10 active efforts under s. 48.028 (4) (e) 2. to prevent the breakup of the Indian family  
11 and that those efforts have proved unsuccessful.

12 **SECTION 137.** 48.42 (2) (c) of the statutes is amended to read:

13 48.42 (2) (c) The guardian, guardian ad litem and, legal custodian, and Indian  
14 custodian of the child.

15 **SECTION 138.** 48.42 (2g) (ag) of the statutes is created to read:

16 48.42 (2g) (ag) If the petitioner knows or has reason to know that the child is  
17 an Indian child, the petitioner shall cause the summons and petition to be served on  
18 the Indian child's parent and Indian custodian in the manner specified in s. 48.028  
19 (4) (a). In like manner, the petitioner shall also notify the Indian child's tribe of all  
20 hearings on the petition. The first notice to an Indian child's tribe shall be written,  
21 shall have a copy of the petition attached to it, and shall state the nature, location,  
22 date, and time of the initial hearing. No hearing may be held on the petition until  
23 at least 10 days after receipt of notice of the hearing by the Indian child's parent,  
24 Indian custodian, and tribe. On request of the Indian child's parent, Indian

or until at least 25 days after receipt of the notice by the  
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1       custodian, or tribe, the court shall grant a continuance of up to 20 additional days  
2       to enable the requester to prepare for the hearing.

3               **SECTION 139.** 48.42 (4) (a) of the statutes is amended to read:

4               48.42 (4) (a) *Personal service.* Except as provided in this paragraph ~~and~~, par.  
5       (b), and sub. (2g) (ag), a copy of the summons and petition shall be served personally  
6       upon the parties specified in sub. (2), if known, at least 7 days before the date of the  
7       hearing. Service of summons is not required if the party submits to the jurisdiction  
8       of the court. Service upon parties who are not natural persons and upon persons  
9       under a disability shall be as prescribed in s. 801.11.

10              **SECTION 140.** 48.422 (1) of the statutes is amended to read:

11              48.422 (1) The Except as provided in s. 48.42 (2g) (ag), the hearing on the  
12       petition to terminate parental rights shall be held within 30 days after the petition  
13       is filed. At the hearing on the petition to terminate parental rights the court shall  
14       determine whether any party wishes to contest the petition and inform the parties  
15       of their rights under sub. (4) and s. 48.423.

16              **SECTION 141.** 48.422 (2) of the statutes is amended to read:

17              48.422 (2) If Except as provided in s. 48.42 (2g) (ag), if the petition is contested  
18       the court shall set a date for a fact-finding hearing to be held within 45 days ~~of~~ after  
19       the hearing on the petition, unless all of the necessary parties agree to commence  
20       with the hearing on the merits immediately.

21              **SECTION 142.** 48.422 (6) (a) of the statutes is amended to read:

22              48.422 (6) (a) In the case of a nonmarital child who is not adopted or whose  
23       parents do not subsequently intermarry under s. 767.803 and for whom paternity  
24       has not been established, or for whom a declaration of paternal interest has not been  
25       filed under s. 48.025 within 14 days after the date of birth of the child or, if s. 48.42

**BILL****SECTION 142**

1 (1g) (b) applies, within 21 days after the date on which the notice under s. 48.42 (1g)  
 2 (b) is mailed, the court shall hear testimony concerning the paternity of the child.  
 3 Based on the testimony, the court shall determine whether all interested parties who  
 4 are known have been notified under s. 48.42 (2) and (2g) (ag). If not, the court shall  
 5 adjourn the hearing and order appropriate notice to be given.

6 **SECTION 143.** 48.422 (8) of the statutes is amended to read:

7 48.422 (8) If the petition for termination of parental rights is filed by an agency  
 8 enumerated in s. 48.069 (1) or (2), the court shall order the agency to ~~submit~~ file a  
 9 report ~~to~~ with the court as provided in s. 48.425 (1), except that, if the child is an  
 10 Indian child, the court may order the agency or request the tribal child welfare  
 11 department of the Indian child's tribe to file that report.

12 **SECTION 144.** 48.423 (1) of the statutes is amended to read:

13 **48.423 (1) RIGHTS TO PATERNITY DETERMINATION.** If a person appears at the  
 14 hearing and claims that he is the father of the child, the court shall set a date for a  
 15 hearing on the issue of paternity ~~or, if~~. If the child is an Indian child or if it appears  
 16 to the court that the determination of paternity may result in a finding that the child  
 17 is an Indian child, the court shall cause notice of the hearing on the issue of paternity  
 18 to be provided to the Indian child's parent, Indian custodian, and tribe under s. 48.42  
 19 (2g) (ag), and the hearing may not be held until at least 10 days after receipt of notice  
 20 under s. 48.42 (2g) (ag) by the Indian child's parent, Indian custodian, and tribe. On  
 21 request of the Indian child's parent, Indian custodian, or tribe, the court shall grant  
 22 a continuance of up to 20 additional days to enable the requester to prepare for the  
 23 hearing. If all parties agree, the court may immediately commence hearing  
 24 testimony concerning the issue of paternity. The court shall inform the person  
 25 claiming to be the father of the child of any right to counsel under s. 48.23. The person

or until at least 25 days after receipt of the notice by the  
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1 claiming to be the father of the child must prove paternity by clear and convincing  
2 evidence. A person who establishes his paternity of the child under this section may  
3 further participate in the termination of parental rights proceeding only if the person  
4 meets the conditions specified in sub. (2) or meets a condition specified in s. 48.42 (2)  
5 or (b) or (bm).

6 **SECTION 145.** 48.424 (1) of the statutes is amended to read:

7 48.424 (1) The purpose of the fact-finding hearing is to determine whether  
8 ~~grounds exist for the termination of parental rights in those cases where the~~  
9 ~~termination in cases in which the petition was contested at the hearing on the~~  
10 ~~petition under s. 48.422 whether grounds exist for termination of parental rights~~  
11 ~~and, in contested cases in which the child is an Indian child, to determine whether~~  
12 ~~grounds exist for termination of parental rights and whether the allegations~~  
13 ~~specified in s. 48.42 (1) (a) are proved.~~

6-10  
77-13

14 **SECTION 146.** 48.424 (2) (intro.) of the statutes is amended to read:

15 48.424 (2) (intro.) The fact-finding hearing shall be conducted according to the  
16 procedure specified in s. 48.31 except that as follows:

17 **SECTION 147.** 48.424 (2) (a) of the statutes is amended to read:

18 48.424 (2) (a) The court may exclude the child from the hearing; and,

19 **SECTION 148.** 48.424 (3) of the statutes is amended to read:

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

25 **SECTION 149.** 48.424 (4) (intro.) of the statutes is amended to read:

Insert  
77-24

**BILL**

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

8           **SECTION 150.** 48.424 (4) (a) of the statutes is amended to read:

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

10          **SECTION 151.** 48.424 (4) (b) of the statutes is amended to read:

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

18          **SECTION 152.** 48.424 (5) of the statutes is amended to read:

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

24          **SECTION 153.** 48.425 (1) (intro.) of the statutes is amended to read:

<sup>agency</sup>  
          <sup>agency</sup>  
          <sup>cause</sup>  
^ unless the court finds good cause, as described in s. 48.028 (7)(e),  
for departing from that order

**BILL**

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

7 **SECTION 154.** 48.425 (1) (cm) of the statutes is created to read:

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

16 **SECTION 155.** 48.427 (5) of the statutes is created to read:

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

22 **SECTION 156.** 48.427 (6) (b) 4. of the statutes is created to read:

23 48.427 (6) (b) 4. If the child is or may be an Indian child, information relating  
 24 to the child's membership or eligibility for membership in an Indian tribe.

25 **SECTION 157.** 48.428 (2) (a) of the statutes is amended to read:

*As unless the court or agency finds good cause,  
 as described in s. 48.028 (7)(e), for  
 departing from that order*

(written) twice

BILL

unless the court finds good cause as described in s. 48.028 (7) (a) or departing from that order

trial

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

SECTION 158. 48.428 (2) (b) of the statutes is amended to read:

14 48.428 (2) (b) When a court places a child in sustaining care after an order  
 15 under s. 48.427 (4) with a person who has been appointed as the guardian of the child  
 16 under s. 48.977 (2), the court may transfer legal custody of the child to the county  
 17 department, the department, in a county having a population of 500,000 or more, or  
 18 a licensed child welfare agency, transfer guardianship of the child to an agency listed  
 19 in s. 48.427 (3m) (a) 1. to 4. or (am), and place the child in the home of a licensed foster  
 20 parent, licensed treatment foster parent, or kinship care relative with whom the  
 21 child has resided for 6 months or longer. In placing an Indian child in sustaining  
 22 care, the court shall comply with the order of placement preference under s. 48.028  
 23 (7) (b) or, if applicable, s. 48.028 (7) (c). Pursuant to such a placement, that licensed  
 24 foster parent, licensed treatment foster parent, or kinship care relative shall be a  
 25 sustaining parent with the powers and duties specified in sub. (3). If the court

**BILL** or until at least 25 days after receipt of notice of the hearing by the ~~USO~~ secretary of the interior

1 transfers guardianship of the child to an agency listed in s. 48.427 (3m) (a) 1. to 4.  
2 or (am), the court shall terminate the guardianship under s. 48.977.

3 **SECTION 159.** 48.43 (5) (bm) of the statutes is created to read:

4 48.43 (5) (bm) If the child is an Indian child, the court shall also provide notice  
5 of the hearing under par. (b) to the Indian child's tribe in the manner specified in s.  
6 48.028 (4) (a). No hearing may be held under par. (b) until at least 10 days after  
7 receipt of notice of the hearing by the Indian child's tribe. On request of the Indian  
8 child's tribe, the court shall grant a continuance of up to 20 additional days to enable  
9 the tribe to prepare for the hearing.

10 **SECTION 160.** 48.43 (5) (c) of the statutes is amended to read:

11 48.43 (5) (c) Following the hearing, the court shall make all of the  
12 determinations specified under s. 48.38 (5) (c), except the determinations relating to  
13 the child's parents. The court may amend the order under sub. (1) to transfer the  
14 child's guardianship and custody to any agency specified under s. 48.427 (3m) (a) 1.  
15 to 4. or (am) that consents to the transfer, if the court determines that the transfer  
16 is in the child's best interest. If an Indian child's guardianship and custody are  
17 transferred under this paragraph, the agency consenting to the transfer shall comply  
18 with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s.  
19 48.028 (7) (c) in placing the child. If an order is amended, the agency that prepared  
20 the permanency plan shall revise the plan to conform to the order and shall file a copy  
21 of the revised plan with the court. Each plan filed under this paragraph shall be  
22 made a part of the court order.

23 **SECTION 161.** 48.43 (5m) of the statutes is amended to read:

24 48.43 (5m) Either the court or the agency that prepared the permanency plan  
25 shall furnish a copy of the original plan and each revised plan to the child, if he or

unless  
↳ unless the agency finds ~~it~~ good cause, as described in s. 48.028  
(7) (e), for departing from that order

**BILL**

1 she is 12 years of age or over, and to the child's foster parent, the child's treatment  
2 foster parent, or the operator of the facility in which the child is living, and, if the  
3 child is an Indian child, to the Indian child's tribe.

4 **SECTION 162.** 48.43 (6) (a) of the statutes is amended to read:

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

13 **SECTION 163.** 48.43 (6) (c) of the statutes is amended to read:

14 48.43 (6) (c) In Except as provided in s. 48.028 (5) (c) and (6), in no event may  
15 any person, for any reason, collaterally attack a judgment terminating parental  
16 rights more than one year after the date on which the time limit for filing an appeal  
17 from the judgment has expired, or more than one year after the date on which all  
18 appeals from the judgment, if any were filed, have been decided, whichever is later.

19 ~~**SECTION 164.** 48.43 (7) of the statutes is amended to read:~~

20 ~~48.43 (7) If the agency specified under sub. (1) (a) is the department and a~~  
21 ~~permanent adoptive placement is not in progress 2 years after entry of the order, the~~  
22 ~~department may petition the court to transfer legal custody of the child to a county~~  
23 ~~department, except that the department may not petition the court to transfer to a~~  
24 ~~county department legal custody of a child who was initially taken into custody~~  
25 ~~under s. 48.195 (1) (a). The court shall transfer the child's legal custody to the county~~

**BILL**

1 department specified in the petition. The department shall remain the child's  
2 guardian.

3 **SECTION 165.** 48.46 (2) of the statutes is amended to read:

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

16 **SECTION 166.** 48.48 (8m) of the statutes is amended to read:

17 48.48 (8m) To enter into agreements with ~~American~~ Indian tribes in this state  
18 to implement the ~~Indian child welfare act~~ federal Indian Child Welfare Act, 25 USC  
19 1911 to 1963.

20 **SECTION 167.** 48.485 of the statutes is amended to read:

21 **48.485 Transfer of tribal Indian children to department for adoption.**

22 If the department accepts guardianship or legal custody or both from an ~~American~~  
23 Indian a tribal court under s. 48.48 (3m), the department shall seek a permanent  
24 adoptive placement for the child. If a permanent adoptive placement is not in  
25 progress within 2 years after entry of the termination of parental rights order by the

**BILL**

1 tribal court, the department may petition the tribal court to transfer legal custody  
 2 or guardianship of the Indian child back to the Indian tribe, except that the  
 3 department may not petition the tribal court to transfer back to ~~a~~ an Indian tribe  
 legal custody or guardianship of ~~a~~ an Indian child who was initially taken into  
 custody under s. 48.195 (1) <sup>e</sup>(a).

6 **SECTION 168.** 48.63 (1) of the statutes is amended to read:

7 48.63 (1) Acting under court order or voluntary agreement, the child's parent  
 8 ~~or~~ guardian, or Indian custodian, the department of health and family services, the  
 9 department of corrections, a county department, or a child welfare agency licensed  
 10 to place children in foster homes, treatment foster homes, or group homes may place  
 11 a child or negotiate or act as intermediary for the placement of a child in a foster  
 12 home, treatment foster home, or group home. Voluntary agreements under this  
 13 subsection may not be used for placements in facilities other than foster, treatment  
 14 foster, or group homes and may not be extended. A foster home or treatment foster  
 15 home placement under a voluntary agreement may not exceed 180 days from the  
 16 date on which the child was removed from the home under the voluntary agreement.  
 17 A group home placement under a voluntary agreement may not exceed 15 days from  
 18 the date on which the child was removed from the home under the voluntary  
 19 agreement, except as provided in sub. (5). These time limitations do not apply to  
 20 placements made under s. 48.345, 938.183, 938.34, or 938.345. Voluntary  
 21 agreements may be made only under this subsection and sub. (5) (b) and shall be in  
 22 writing and shall specifically state that the agreement may be terminated at any  
 23 time by the parent ~~or~~ guardian, or Indian custodian or by the child if the child's  
 24 consent to the agreement is required. In the case of an Indian child who is placed  
 25 under this subsection by the voluntary agreement of the Indian child's parent or

~~Insert  
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**BILL**

Insert 85-3

1 ~~Indian custodian, the voluntary consent of the parent or Indian custodian to the~~  
2 ~~placement shall be given as provided in s. 48.028 (5) (a). The child's consent to the~~  
3 ~~agreement is required whenever the child is 12 years of age or older.~~

4 **SECTION 169.** 48.63 (4) of the statutes is amended to read:

5 48.63 (4) A permanency plan under s. 48.38 is required for each child placed  
6 in a foster home or treatment foster home under sub. (1). If the child is living in a  
7 foster home or treatment foster home under a voluntary agreement, the agency that  
8 negotiated or acted as intermediary for the placement shall prepare the permanency  
9 plan within 60 days after the date on which the child was removed from his or her  
10 home under the voluntary agreement. A copy of each plan shall be provided to the  
11 child if he or she is 12 years of age or over and, to the child's parent or guardian, and,  
12 if the child is an Indian child, to the Indian child's Indian custodian and tribe. If the  
13 agency that arranged the voluntary placement intends to seek a court order to place  
14 the child outside of his or her home at the expiration of the voluntary placement, the  
15 agency shall prepare a revised permanency plan and file that revised plan with the  
16 court prior to the date of the hearing on the proposed placement.

17 **SECTION 170.** 48.63 (5) (b) of the statutes is amended to read:

18 48.63 (5) (b) If a child who is at least 14 years of age, who is a custodial parent,  
19 as defined in s. 49.141 (1) (b), or an expectant mother, and who is in need of a safe  
20 and structured living arrangement and the parent ~~or~~, guardian, or Indian custodian  
21 of the child consent, a child welfare agency licensed to place children in group homes  
22 may place the child or arrange the placement of the child in a group home described  
23 in s. 48.625 (1m). Before placing a child or arranging the placement of a child under  
24 this paragraph, the child welfare agency shall report any suspected abuse or neglect  
25 of the child as required under s. 48.981 (2). A voluntary agreement to place a child

**BILL**

1 in a group home described in s. 48.625 (1m) may be made only under this paragraph,  
2 shall be in writing, and shall specifically state that the agreement may be terminated  
3 at any time by the parent, guardian, Indian custodian, or child. In the case of an  
4 Indian child who is placed in a group home under this paragraph by the voluntary  
5 agreement of the Indian child's parent or Indian custodian, the voluntary consent of  
6 the parent or Indian custodian to the placement shall be given as provided in s.  
7 48.028 (5) (a). An initial placement under this paragraph may not exceed 180 days  
8 from the date on which the child was removed from the home under the voluntary  
9 agreement, but may be extended as provided in par. (d) 3. to 6. An initial placement  
10 under this paragraph of a child who is under 16 years of age on the date of the initial  
11 placement may be extended as provided in par. (d) 3. to 6. no more than once.

12 **SECTION 171.** 48.63 (5) (c) of the statutes is amended to read:

13 48.63 (5) (c) A permanency plan under s. 48.38 is required for each child placed  
14 in a group home under par. (b) and for any child of that child who is residing with that  
15 child. The agency that placed the child or that arranged the placement of the child  
16 shall prepare the plan within 60 days after the date on which the child was removed  
17 from his or her home under the voluntary agreement and shall provide a copy of the  
18 plan to the child ~~and~~, the child's parent or guardian, and, if the child is an Indian  
19 child, the Indian child's Indian custodian and tribe.

20 **SECTION 172.** 48.63 (5) (d) 3. of the statutes is amended to read:

21 48.63 (5) (d) 3. If the agency that has placed a child under par. (b) or that has  
22 arranged the placement of the child wishes to extend the placement of the child, the  
23 agency shall prepare a revised permanency plan for that child and for any child of  
24 that child who is residing with that child and submit the revised permanency plan  
25 or plans, together with a request for a review of the revised permanency plan or plans

**BILL**

1 and the child's placement, to the independent reviewing agency before the expiration  
2 of the child's placement. The request shall include a statement that an extension of  
3 the child's placement would be in the best interests of the child, together with reliable  
4 and credible information in support of that statement, a statement that the child and  
5 the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension of  
6 the child's placement, and a request that the independent reviewing agency approve  
7 an extension of the child's placement. On receipt of a revised permanency plan or  
8 plans and a request for review, the independent reviewing agency shall set a time and  
9 place for the review and shall advise the agency that placed the child or that arranged  
10 the placement of the child of the time and place of the review.

11 **SECTION 173.** 48.63 (5) (d) 4. of the statutes is amended to read:

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

22 **SECTION 174.** 48.63 (5) (d) 5. of the statutes is amended to read:

23 48.63 (5) (d) 5. At the review, any person specified in subd. 4. may present  
24 information relevant to the issue of extension and information relevant to the  
25 determinations specified in s. 48.38 (5) (c). After receiving that information, the

**BILL**

1 independent reviewing agency shall make the determinations specified in s. 48.38  
2 (5) (c) and determine whether an extension of the child's placement is in the best  
3 interests of the child and whether the child and the parent ~~or~~, guardian, or Indian  
4 custodian of the child consent to the extension. If the independent reviewing agency  
5 determines that the extension is in the best interests of the child and that the child  
6 and the parent ~~or~~, guardian, or Indian custodian of the child consent to the extension,  
7 the independent reviewing agency shall approve, in writing, an extension of the  
8 placement for a specified period of time not to exceed 6 months, stating the reason  
9 for the approval, and the agency that placed the child or that arranged the placement  
10 of the child may extend the child's placement for the period of time approved. If the  
11 independent reviewing agency determines that the extension is not in the best  
12 interests of the child or that the child and the parent ~~or~~, guardian, or Indian  
13 custodian of the child do not consent to the extension, the independent reviewing  
14 agency shall, in writing, disapprove an extension of the placement, stating the  
15 reason for the disapproval, and the agency that placed the child or that arranged the  
16 placement of the child may not extend the placement of the child past the expiration  
17 date of the voluntary placement unless the agency obtains a court order placing the  
18 child in the group home after the expiration date of the voluntary placement.  
19 Notwithstanding the approval of an extension under this subdivision, the child or the  
20 parent ~~or~~, guardian, or Indian custodian of the child may terminate the placement  
21 at any time during the extension period.

22 **SECTION 175.** 48.63 (5) (d) 6. of the statutes is amended to read:

23 48.63 (5) (d) 6. Within 30 days after the review, the agency that prepared the  
24 revised permanency plan or plans shall prepare a written summary of the  
25 determinations specified in s. 48.38 (5) (c) that were made under subd. 5. and shall

**BILL**

Insert  
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1 provide a copy of that summary to the independent reviewing agency, the child, the  
2 parent, guardian, and legal custodian of the child, and the operator of the group home  
3 in which the child was placed, and, if the child is an Indian child, the Indian child's  
4 Indian custodian and tribe.

5 **SECTION 176.** 48.83 (1) of the statutes is amended to read:

6 48.83 (1) The Except as provided in s. 48.028 (3) (b), the court of the county  
7 where the proposed adoptive parent or child resides, upon the filing of a petition for  
8 adoption or for the adoptive placement of a child, has jurisdiction over the child until  
9 the petition is withdrawn, denied, or granted. Venue shall be in the county where  
10 the proposed adoptive parent or child resides at the time the petition is filed. The  
11 court may transfer the case to a court in the county in which the proposed adoptive  
12 parents reside.

or until at least 25 days after receipt of the notice by  
the 4050 secretary of the interior

13 **SECTION 177.** 48.831 (1r) of the statutes is created to read:

14 48.831 (1r) NOTICE. When a petition is filed under sub. (1m), the court shall  
15 provide notice of the fact-finding hearing under sub. (3) to all interested parties as  
16 provided in s. 48.27 (6). If the court knows or has reason to know that the child is  
17 an Indian child, the court shall provide notice to the Indian child's Indian custodian,  
18 if any, and tribe, if known, in the manner specified in s. 48.028 (4) (a). No hearing  
19 may be held under sub. (3) until at least 10 days after receipt of the notice by the  
20 Indian child's Indian custodian and tribe. On request of the Indian child's Indian  
21 custodian or tribe, the court shall grant a continuance of up to 20 additional days to  
22 enable the requester to prepare for the hearing.

23 **SECTION 178.** 48.831 (2) of the statutes is amended to read:

24 48.831 (2) REPORT. If the department, county department, or child welfare  
25 agency files a petition, ~~it shall submit~~ the court shall order the department, county

**BILL**

1 department, or child welfare agency to file a report to with the court containing as  
 2 much of the information specified under s. 48.425 (1) (a) and (am) as is reasonably  
 3 ascertainable and, if applicable, the information specified under s. 48.425 (1) (g). If  
 4 the petition is filed by a relative or other person specified under sub. (1m) (d), the  
 5 court shall order the department or a child welfare agency, if the department or  
 6 agency consents, or a county department to file a report containing the information  
 7 specified in this subsection. If the child is an Indian child, the court may order the  
 8 department, county department, or child welfare agency, or request the tribal child  
 9 welfare department of the Indian child's tribe, if that department consents, to file a  
 10 report containing the information specified in this subsection. The department,  
 11 county department ~~or~~, child welfare agency, or tribal child welfare department, if  
 12 that department consents, shall file the report at least 5 days before the date of the  
 13 fact-finding hearing on the petition.

14 **SECTION 179.** 48.831 (4) (cm) of the statutes is created to read:

15 48.831 (4) (cm) If the child is an Indian child who is in the custody of an Indian  
 16 custodian, the court may not remove the child from the custody of the Indian  
 17 custodian under par. (c) unless the court finds by clear and convincing evidence,  
 18 including the testimony of one or more qualified expert witnesses, that continued  
 19 custody of the Indian child by the Indian custodian is likely to result in serious  
 20 emotional or physical damage to the child under s. 48.028 (4) (d) 1. and that the  
 21 department, county department, or child welfare agency has made active efforts  
 22 under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that those  
 23 efforts have proved unsuccessful. In placing an Indian child following a transfer of  
 24 guardianship and custody under par. (b) or (c), the custodian appointed under par.

BILL

*there is unless there is good cause as described in s. 48.028 (7)(e) for departure from that order*

(b) or (c) shall comply with the order of placement preference under s. 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c).

SECTION 180. 48.833 of the statutes is amended to read:

~~48.833 Placement of children for adoption by the department, county departments and child welfare agencies. The department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place a child for adoption in a licensed foster home or a licensed treatment foster home without a court order if the department, county department, or child welfare agency is the guardian of the child or makes the placement at the request of another agency that is the guardian of the child. In placing an Indian child for adoption under this section, the department, county department, or child welfare agency shall comply with the order of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c). When a child is placed under this section in a licensed foster home or a licensed treatment foster home for adoption, the department, county department, or child welfare agency making the placement shall enter into a written agreement with the proposed adoptive parent, which shall state the date on which the child is placed in the licensed foster home or licensed treatment foster home for adoption by the proposed adoptive parent.~~

*LPS: PLS chg comp*

*amended*

SECTION 181. 48.833 of the statutes, as affected by 2005 Wisconsin Act 293 and 2007 Wisconsin Act ..., ~~(this act)~~, is ~~repealed and recreated~~ to read:

48.833 Placement of children for adoption by the department, county departments, and child welfare agencies. The department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place a child for adoption in a licensed foster home or a licensed treatment foster home without a court order if the department, county department,

**BILL**

*unless the department, county department, or child welfare agency finds good cause as described in s. 48.028 (7) (e) for departing from that order*

**SECTION 181**

1 or child welfare agency is the guardian of the child or makes the placement at the  
 2 request of another agency that is the guardian of the child and if the proposed  
 3 adoptive parents have completed the preadoption preparation required under s.  
 4 48.84 (1) or the department, county department, or child welfare agency determines  
 5 that the proposed adoptive parents are not required to complete that preparation.

6 In placing an Indian child for adoption under this section, the department, county  
 7 department, or child welfare agency shall comply with the order of placement  
 8 preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c). When a child is  
 9 placed under this section in a licensed foster home or a licensed treatment foster  
 10 home for adoption, the department, county department, or child welfare agency  
 11 making the placement shall enter into a written agreement with the proposed  
 12 adoptive parent, which shall state the date on which the child is placed in the licensed  
 13 foster home or licensed treatment foster home for adoption by the proposed adoptive  
 14 parent.

**SECTION 182.** 48.837 (2) (e) of the statutes is created to read:

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

**SECTION 183.** 48.837 (4) (c) of the statutes is amended to read:

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

**BILL**

Unless the Department or county department finds good cause as described in s. 48.028 (7)(c) or departing from that order

or a

1 accept a report and recommendation from the child welfare agency or tribal child  
2 welfare department in place of the court-ordered report required under this  
3 paragraph. In reporting its recommendations under this paragraph with respect to  
4) an Indian child, the department, a county department, child welfare agency, or tribal  
5) child welfare department shall comply with the order of placement preference under  
6) s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c).

**SECTION 184.** 48.837 (4) (d) of the statutes is amended to read:

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

15) (b) or, if applicable, s. 48.028 (7) (c). Unless the department or county department finds  
good cause as described in s. 48.028 (7)(c) or

**SECTION 185.** 48.837 (6) (c) of the statutes is amended to read:

17 48.837 (6) (c) After the hearing on the petition under sub. (2), the court shall  
18 make findings on the allegations of the petition and the report ordered under sub.  
19 (4) (c) and make a conclusion as to whether placement in the home is in the best  
20 interest of the child. In determining whether placement of an Indian child in the  
21 home is in the best interest of the Indian child, the court shall comply with the order  
22 of placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c).

**SECTION 186.** 48.85 (1) of the statutes is amended to read:

24 48.85 (1) At least 10 days prior to the hearing, the guardian shall file its  
25 recommendation with the court. In making a recommendation under this subsection

Unless the court finds good cause as described in s. 48.028 (7)(c), for departing from that order

**BILL**

1 with respect to an Indian child, the guardian shall comply with the order of  
2 placement preference under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c).

3 **SECTION 187.** 48.88 (2) (a) (intro.) of the statutes is amended to read:

4 48.88 (2) (a) (intro.) Except as provided under ~~par.~~ pars. (am) and (c), when a  
5 petition to adopt a child is filed, the court shall order an investigation to determine  
6 whether the child is a proper subject for adoption and whether the petitioner's home  
7 is suitable for the child. The court shall order one of the following to conduct the  
8 investigation:

9) **SECTION 188.** 48.88 (2) ~~(am)~~ of the statutes is created to read:

10) 48.88 (2) ~~(am)~~ If the child is an Indian child, in lieu of ordering an investigation  
11 under par. (a), the court may request the tribal child welfare department of the  
12 Indian child's tribe, if that department consents, to conduct the investigation.

13 **SECTION 189.** 48.88 (2) (b) of the statutes is amended to read:

14 48.88 (2) (b) The agency or tribal child welfare department making the  
15 investigation shall file its report with the court at least 10 days before the hearing  
16 unless the time is reduced for good cause shown by the petitioner. In reporting on  
17 an investigation of the proposed adoptive home of an Indian child, the agency or  
18 tribal child welfare department shall comply with the order of placement preference  
19 under s. 48.028 (7) (a) or, if applicable, s. 48.028 (7) (c). The report shall be part of  
20 the record of the proceedings.

21 **SECTION 190.** 48.89 (1) of the statutes is amended to read:

22 48.89 (1) The recommendation of the department is required for the adoption  
23 of a child if the child is not under the guardianship of a county department under s.  
24 48.57 (1) (e) or (hm) or a child welfare agency under s. 48.61 (5). In making a  
25 recommendation under this subsection with respect to an Indian child, the

Unless the agency finds good cause, as described in s. 48.028 (7)(c),  
or departing from that order

BILL

in s. 48.028 (7)(e)

finds good cause, as described  
for departing from that order

1 department shall comply with the order of placement preference under s. 48.028 (7)  
2 (a) or, if applicable, s. 48.028 (7) (c).

3 SECTION 191. 48.91 (3) of the statutes is amended to read:

4 48.91 (3) If after the hearing and a study of the report required by s. 48.88 and  
5 the recommendation required by s. 48.841 or 48.89, the court is satisfied that the  
6 necessary consents or recommendations have been filed and that the adoption is in  
7 the best interests of the child, the court shall make an order granting the adoption.

8 In determining whether the adoption is in the best interests of an Indian child, the  
9 court shall comply with the order of placement preference under s. 48.028 (7) (a) or,  
10 if applicable, s. 48.028 (7) (c). The order may change the name of the minor to that  
11 requested by petitioners.

12 ~~SECTION 192. 48.93 (1d) of the statutes is amended to read:~~

13 ~~48.93 (1d) All records and papers pertaining to an adoption proceeding shall~~  
14 ~~be kept in a separate locked file and may not be disclosed except under sub. (1g) or,~~  
15 ~~(1r), or (1v), s. 46.03 (29), 48.432, 48.433, 48.434, 48.48 (17) (a) 9. or 48.57 (1) (j), or~~  
16 ~~by order of the court for good cause shown.~~

17 SECTION 193. 48.93 (1v) of the statutes is created to read:

18 48.93 (1v) (a) At the time a court enters an order granting adoption of an Indian  
19 child, the court shall provide the U.S. secretary of the interior with the information  
20 specified in s. 48.028 (9) (a) and (b).

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

24 ~~SECTION 194. 48.977 (2) (g) of the statutes is created to read:~~

unless the court finds good cause, as described in s. 48.028 (7)(e)  
for departing from that order

Incl  
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## BILL

1 ~~48.977 (2) (g) In the case of an Indian child, that continued custody of the~~  
2 ~~Indian child by the parent or Indian custodian is likely to result in serious emotional~~  
3 ~~or physical damage to the child under s. 48.028 (4) (d) 1. and that the agency~~  
4 ~~primarily responsible for providing services to the Indian child under a court order~~  
5 ~~has made active efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian~~  
6 ~~family and that those efforts have proved unsuccessful.~~

7 SECTION 195. 48.977 (4) (a) 1. of the statutes is amended to read:

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

10 SECTION 196. 48.977 (4) (b) 6. of the statutes is amended to read:

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

15 ~~SECTION 197. 48.977 (4) (b) 7. of the statutes is created to read:~~

16 ~~48.977 (4) (b) 7. If the child is or may be an Indian child, reliable and credible~~  
17 ~~information showing that continued custody of the child by the child's parent or~~  
18 ~~Indian custodian is likely to result in serious emotional or physical damage to the~~  
19 ~~child under s. 48.028 (4) (d) 1. and reliable and credible information showing that the~~  
20 ~~person who took the child into custody and the intake worker have made active~~  
21 ~~efforts under s. 48.028 (4) (d) 2. to prevent the breakup of the Indian family and that~~  
22 ~~those efforts have proved unsuccessful.~~

23 SECTION 198. 48.977 (4) (c) 1. j. of the statutes is created to read:

24 48.977 (4) (c) 1. j. If the child is an Indian child, the Indian child's Indian  
25 custodian, if any, and tribe, if known.