



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. 07C 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.

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1 **SECTION 174.** 48.645 (1) (a) of the statutes, as affected by 2007 Wisconsin Act
2 20, is amended to read:

3 48.645 (1) (a) The child is living in a foster home or treatment foster home
4 licensed under s. 48.62 if a license is required under that section, in a foster home
5 or treatment foster home located within the boundaries of a ~~federally recognized~~
6 ~~American Indian~~ reservation in this state and licensed by the tribal governing body
7 of the reservation, in a group home licensed under s. 48.625, in a subsidized
8 guardianship home under s. 48.62 (5), or in a residential care center for children and
9 youth licensed under s. 48.60, and has been placed in the foster home, treatment
10 foster home, group home, subsidized guardianship home, or center by a county
11 department under s. 46.215, 46.22, or 46.23, by the department, or by a ~~federally~~
12 ~~recognized American Indian tribal~~ governing body of an Indian tribe in this state
13 under an agreement with a county department under s. 46.215, 46.22, or 46.23.

14 **SECTION 175.** 48.645 (2) (a) 1. of the statutes, as affected by 2007 Wisconsin Act
15 20, is amended to read:

16 48.645 (2) (a) 1. A nonrelative who cares for the dependent child in a foster
17 home or treatment foster home having a license under s. 48.62, in a foster home or
18 treatment foster home located within the boundaries of a ~~federally recognized~~
19 ~~American Indian~~ reservation in this state and licensed by the tribal governing body
20 of the reservation or in a group home licensed under s. 48.625, a subsidized guardian
21 or interim caretaker under s. 48.62 (5) who cares for the dependent child, or a minor
22 custodial parent who cares for the dependent child, regardless of the cause or
23 prospective period of dependency. The state shall reimburse counties pursuant to the
24 procedure under s. 48.569 (2) and the percentage rate of participation set forth in s.
25 48.569 (1) (d) for aid granted under this section except that if the child does not have

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1 legal settlement in the granting county, state reimbursement shall be at 100%. The
2 county department under s. 46.215, 46.22, or 46.23 or the department under s. 48.48
3 (17) shall determine the legal settlement of the child. A child under one year of age
4 shall be eligible for aid under this subsection irrespective of any other residence
5 requirement for eligibility within this section.

6 **SECTION 176.** 48.645 (2) (a) 3. of the statutes, as affected by 2007 Wisconsin Act
7 20, is amended to read:

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

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

21 48.645 (2) (a) 4. A licensed foster home, treatment foster home, group home,
22 or residential care center for children and youth or a subsidized guardianship home
23 when the child is in the custody or guardianship of the state, when the child is a ward
24 of an ~~American Indian~~ a tribal court in this state and the placement is made under
25 an agreement between the department and the ~~tribal~~ governing body of the Indian

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1 tribe of the tribal court, or when the child was part of the state's direct service case
2 load and was removed from the home of a relative as a result of a judicial
3 determination that continuance in the home of a relative would be contrary to the
4 child's welfare for any reason and the child is placed by the department.

5 **SECTION 178.** 48.645 (2) (b) of the statutes, as affected by 2007 Wisconsin Act
6 20, is amended to read:

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

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

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

18 **SECTION 181.** 48.685 (5) (a) of the statutes, as affected by 2007 Wisconsin Act
19 20, is amended to read:

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

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1 not be employed, contracted with, or permitted to reside at the entity for a reason
2 specified in sub. (4m) (b) 1. to 5., if the person demonstrates to the department, the
3 county department, the child welfare agency, or the school board or, in the case of an
4 entity that is located within the boundaries of a reservation, to the person or body
5 designated by the Indian tribe under sub. (5d) (a) 3., by clear and convincing evidence
6 and in accordance with procedures established by the department by rule or by the
7 tribe that he or she has been rehabilitated.

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

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

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

13 48.685 (5d) (a) 2. The title of the person or body designated by the Indian tribe
14 to whom a request for review must be made.

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

16 48.685 (5d) (a) 3. The title of the person or body designated by the Indian tribe
17 to determine whether a person has been rehabilitated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 938.02 (8m) "Indian juvenile's tribe" means one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (2) DEFINITIONS. In this section:

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

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

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

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

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

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

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

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

20 **(3) JURISDICTION OVER INDIAN JUVENILE CUSTODY PROCEEDINGS. (a) Applicability.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 ~~the Indian juvenile shall be returned to his or her parent or Indian custodian.~~

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

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1 in placing such an Indian juvenile in an out-of-home care placement, preference
2 shall be given, in the absence of good cause, as described in par. (d), to the contrary,
3 to a placement in one of the following, in the order of preference listed:

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

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

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

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

12 (b) *Tribal or personal preferences.* If the Indian juvenile's tribe has established,
13 by resolution, an order of preference that is different from the order specified in par.

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

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

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

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

9 b. Any extraordinary physical, mental, or emotional health needs of the Indian
10 juvenile requiring highly specialized treatment services as established by a qualified
11 expert witness.

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

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

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

24 (7) RETURN OF CUSTODY; REMOVAL FROM OUT-OF-HOME CARE PLACEMENT. If an
25 Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m),

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1 or (7) is removed from an out-of-home care placement for the purpose of placing the
2 Indian juvenile in another out-of-home care placement, a preadoptive placement,
3 as defined in s. 48.028 (2) (f), or an adoptive placement, as defined in s. 48.028 (2) (a),
4 the placement shall be made in accordance with this section and s. 48.028. Removal
5 of such an Indian juvenile from an out-of-home care placement for the purpose of
6 returning the Indian juvenile to the home of the parent or Indian custodian from
7 whose custody the Indian juvenile was originally removed is not subject to this
8 section.

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

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

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

19 **938.13 Jurisdiction over juveniles alleged to be in need of protection**
20 **or services.** (intro.) The Except as provided in s. 938.028 (3), the court has exclusive
21 original jurisdiction over a juvenile alleged to be in need of protection or services
22 which can be ordered by the court if any of the following conditions applies:

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

24 **938.15 Jurisdiction of other courts to determine legal custody.** **Nothing**
25 Except as provided in s. 938.028 (3), nothing in this chapter deprives another court

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1 of the right to determine the legal custody juvenile by habeas corpus or to determine
2 the legal custody or guardianship of a juvenile if the legal custody or guardianship
3 is incidental to the determination of an action pending in that court. ~~But~~ Except as
4 provided in s. 938.028 (3), the jurisdiction of the court assigned to exercise
5 jurisdiction under this chapter and ch. 48 is paramount in all cases involving
6 juveniles alleged to come within the provisions of ss. 938.12 to 938.14.

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

8 938.185 (4) (title) ~~AMERICAN~~ INDIAN JUVENILES.

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

10 938.185 (4) (intro.) Venue for a proceeding under s. 938.12 or 938.13 (12) based
11 on an allegation that an ~~American~~ Indian juvenile has committed a delinquent act
12 may not be in the county specified in sub. (1) (a), unless that county is specified in
13 sub. (1) (b) or (c), if all of the following circumstances apply:

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

15 938.185 (4) (a) At the time of the alleged delinquent act the juvenile was under
16 an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to adoption,
17 physical placement or visitation with the juvenile's parent, or permanent
18 guardianship.

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

20 938.185 (4) (b) At the time of the alleged delinquent act the juvenile was
21 physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe
22 of the tribal court and any off-reservation trust land of either that Indian tribe or a
23 member of that Indian tribe as a direct consequence of a tribal court order under par.
24 (a), including a tribal court order placing the juvenile in the home of a relative of the

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1 juvenile who on or after the date of the tribal court order resides physically outside
2 the boundaries of a reservation and off-reservation trust land.

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

4 938.19 (2) NOTIFICATION OF PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN
5 CUSTODIAN. When a juvenile is taken into physical custody under this section, the
6 person taking the juvenile into custody shall immediately attempt to notify the
7 parent, guardian, ~~and~~ legal custodian, and Indian custodian of the juvenile by the
8 most practical means. The person taking the juvenile into custody shall continue
9 such attempt until the parent, guardian, ~~and~~ legal custodian, and Indian custodian
10 of the juvenile are notified, or the juvenile is delivered to an intake worker under s.
11 938.20 (3), whichever occurs first. If the juvenile is delivered to the intake worker
12 before the parent, guardian, ~~and~~ legal custodian, and Indian custodian are notified,
13 the intake worker, or another person at his or her direction, shall continue the
14 attempt to notify until the parent, guardian, ~~and~~ legal custodian, and Indian
15 custodian of the juvenile are notified.

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

17 938.20 (2) (ag) Except as provided in pars. (b) to (g), a person taking a juvenile
18 into custody shall make every effort to release the juvenile immediately to the
19 juvenile's parent, guardian ~~or~~, legal custodian, or Indian custodian.

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

21 938.20 (2) (b) If the juvenile's parent, guardian ~~or~~, legal custodian, or Indian
22 custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,
23 the person who took the juvenile into custody may release the juvenile to a
24 responsible adult after counseling or warning the juvenile as may be appropriate.

25 **SECTION 255.** 938.20 (3) of the statutes is amended to read:

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1 938.20 (3) NOTIFICATION TO PARENT, GUARDIAN, LEGAL CUSTODIAN, INDIAN
2 CUSTODIAN OF RELEASE. If the juvenile is released under sub. (2) (b) to (d) or (g), the
3 person who took the juvenile into custody shall immediately notify the juvenile's
4 parent, guardian, ~~and~~ legal custodian, and Indian custodian of the time and
5 circumstances of the release and the person, if any, to whom the juvenile was
6 released. If the juvenile is not released under sub. (2), the person who took the
7 juvenile into custody shall arrange in a manner determined by the court and law
8 enforcement agencies for the juvenile to be interviewed by the intake worker under
9 s. 938.067 (2). The person who took the juvenile into custody shall make a statement
10 in writing with supporting facts of the reasons why the juvenile was taken into
11 physical custody and shall give a copy of the statement to the intake worker and to
12 any juvenile 10 years of age or older. If the intake interview is not done in person,
13 the report may be read to the intake worker.

14 **SECTION 256.** 938.20 (7) (c) 1. of the statutes is amended to read:

15 938.20 (7) (c) 1. To a parent, guardian, ~~or~~ legal custodian, or Indian custodian,
16 or to a responsible adult if the parent, guardian, ~~or~~ legal custodian, or Indian
17 custodian is unavailable, unwilling, or unable to provide supervision for the juvenile,
18 counseling or warning the juvenile as may be appropriate; or, if the juvenile is 15
19 years of age or older, without immediate adult supervision, counseling or warning
20 the juvenile as may be appropriate.

21 **SECTION 257.** 938.20 (7) (d) of the statutes is amended to read:

22 938.20 (7) (d) If the juvenile is released from custody, the intake worker shall
23 immediately notify the juvenile's parent, guardian ~~and~~, legal custodian, and Indian
24 custodian of the time and circumstances of the release and the person, if any, to whom
25 the juvenile was released.

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1 **SECTION 258.** 938.20 (8) (a) of the statutes is amended to read:

2 938.20 **(8)** (a) If a juvenile is held in custody, the intake worker shall notify the
3 juvenile's parent, guardian, ~~and legal custodian, and Indian custodian~~ of the reasons
4 for holding the juvenile in custody and of the juvenile's whereabouts unless there is
5 reason to believe that notice would present imminent danger to the juvenile. The
6 parent, guardian, ~~and legal custodian, and Indian custodian~~ shall also be notified of
7 the time and place of the detention hearing required under s. 938.21, the nature and
8 possible consequences of the hearing, ~~and the right to present and cross-examine~~
9 witnesses at the hearing, ~~and, in the case of a parent or Indian custodian of an Indian~~
10 ~~juvenile, the right to counsel under s. 938.028 (4) (b).~~ If the parent, guardian, ~~or legal~~
11 ~~custodian, or Indian custodian~~ is not immediately available, the intake worker or
12 another person designated by the court shall provide notice as soon as possible.

13 **SECTION 259.** 938.21 (2) (title) of the statutes is amended to read:

14 938.21 **(2)** (title) PROCEEDINGS CONCERNING ~~RUNAWAY OR DELINQUENT~~ JUVENILES.

15 **SECTION 260.** 938.21 (2) (ag) of the statutes is amended to read:

16 938.21 **(2)** (ag) Proceedings concerning a juvenile who comes within the
17 jurisdiction of the court under s. 938.12 or 938.13 ~~(7) or (12) or (14)~~ shall be conducted
18 according to this subsection.

19 **SECTION 261.** 938.21 (3) (ag) of the statutes is amended to read:

20 938.21 **(3)** (ag) Proceedings concerning a juvenile who comes within the
21 jurisdiction of the court under s. 938.13 (4), (6), (6m), ~~or (14) (7)~~ shall be conducted
22 according to this subsection.

23 **SECTION 262.** 938.21 (3) (am) of the statutes is amended to read:

24 938.21 **(3)** (am) The parent, guardian, ~~or legal custodian, or Indian custodian~~
25 may waive his or her right to participate in the hearing under this section. After any

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1 waiver, a rehearing shall be granted at the request of the parent, guardian, legal
2 custodian, Indian custodian, or any other interested party for good cause shown.

3 **SECTION 263.** 938.21 (3) (b) of the statutes is amended to read:

4 938.21 (3) (b) If present at the hearing, a copy of the petition or request shall
5 be given to the parent, guardian, ~~or legal custodian~~, or Indian custodian, and to the
6 juvenile if he or she is 12 years of age or older, before the hearing begins. Prior notice
7 of the hearing shall be given to the juvenile's parent, guardian, ~~and legal custodian~~,
8 and Indian custodian and to the juvenile if he or she is 12 years of age or older under
9 s. 938.20 (8).

10 **SECTION 264.** 938.21 (3) (d) of the statutes is amended to read:

11 938.21 (3) (d) Prior to the commencement of the hearing, the court shall inform
12 the parent, guardian, ~~or legal custodian~~, or Indian custodian of the allegations that
13 have been made or may be made, the nature and possible consequences of this
14 hearing as compared to possible future hearings, the right to present, confront, and
15 cross-examine witnesses, ~~and the right to present witnesses~~ and, in the case of a
16 parent or Indian custodian of an Indian juvenile, the right to counsel under s.
17 938.028 (4) (b).

18 **SECTION 265.** 938.21 (3) (e) of the statutes is amended to read:

19 938.21 (3) (e) If the parent, guardian, ~~or legal custodian~~, Indian custodian, or
20 the juvenile is not represented by counsel at the hearing and if the juvenile is
21 continued in custody as a result of the hearing, the parent, guardian, legal custodian,
22 Indian custodian, or juvenile may request through counsel subsequently appointed
23 or retained or through a guardian ad litem that the order to hold the juvenile in
24 custody be reheard. If the request is made, a rehearing shall take place as soon as

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1 possible. An order to hold the juvenile in custody shall be reheard for good cause,
2 whether or not counsel was present.

3 **SECTION 266.** 938.21 (5) (d) 1. of the statutes is renumbered 938.21 (5) (d) and
4 amended to read:

5 938.21 (5) (d) If the court finds that any of the circumstances specified in s.
6 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the court shall hold a hearing
7 under s. 938.38 (4m) within 30 days after the date of that finding to determine the
8 permanency plan for the juvenile. ~~If a hearing is held under this subdivision, the~~
9 ~~agency responsible for preparing the permanency plan shall file the permanency~~
10 ~~plan with the court not less than 5 days before the date of the hearing.~~

11 **SECTION 267.** 938.21 (5) (d) 2. of the statutes is repealed.

12 **SECTION 268.** 938.21 (5) (d) 3. of the statutes is repealed.

13 **SECTION 269.** 938.23 (2g) of the statutes is created to read:

14 938.23 (2g) RIGHT OF INDIAN JUVENILE'S PARENT OR INDIAN CUSTODIAN TO COUNSEL.
15 Whenever an Indian juvenile is the subject of a proceeding under s. 938.13 (4), (6),
16 (6m), or (7) involving the removal of the Indian juvenile from his or her home or the
17 placement of the Indian juvenile in an out-of-home care placement, the Indian
18 juvenile's parent or Indian custodian shall have the right to be represented by
19 court-appointed counsel as provided in sub. (4).

20 **SECTION 270.** 938.23 (4) of the statutes is amended to read:

21 938.23 (4) PROVIDING COUNSEL. If a juvenile has a right to be represented by
22 counsel or is provided counsel at the discretion of the court under this section and
23 counsel is not knowingly and voluntarily waived, the court shall refer the juvenile
24 to the state public defender and counsel shall be appointed by the state public
25 defender under s. 977.08 without a determination of indigency. In any situation

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1 under sub. (2g) in which a parent 18 years of age or over is entitled to representation
2 by counsel; counsel is not knowingly and voluntarily waived; and it appears that the
3 parent is unable to afford counsel in full, or the parent so indicates; the court shall
4 refer the parent to the authority for indigency determinations specified under s.
5 977.07 (1). In any other situation under this section in which a person has a right
6 to be represented by counsel or is provided counsel at the discretion of the court,
7 competent and independent counsel shall be provided and reimbursed in any
8 manner suitable to the court regardless of the person's ability to pay, except that the
9 court may not order a person who files a petition under s. 813.122 or 813.125 to
10 reimburse counsel for the juvenile who is named as the respondent in that petition.

11 **SECTION 271.** 938.235 (4) (a) 7. of the statutes is amended to read:

12 938.235 (4) (a) 7. Petition for relief from a judgment terminating parental
13 rights under s. 48.028 or 48.46.

14 **SECTION 272.** 938.24 (2r) (title) of the statutes is amended to read:

15 938.24 (2r) (title) ~~AMERICAN~~ INDIAN JUVENILE; NOTIFICATION OF TRIBAL COURT.

16 **SECTION 273.** 938.24 (2r) (a) (intro.) of the statutes is amended to read:

17 938.24 (2r) (a) (intro.) If the intake worker determines as a result of the intake
18 inquiry that the juvenile is an ~~American~~ Indian juvenile who has allegedly
19 committed a delinquent act and that all of the following circumstances apply, the
20 intake worker shall promptly notify the clerk of the tribal court under subd. 1., a
21 person who serves as the tribal juvenile intake worker, or a tribal prosecuting
22 attorney that the juvenile has allegedly committed a delinquent act under those
23 circumstances:

24 **SECTION 274.** 938.24 (2r) (a) 1. of the statutes is amended to read:

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1 938.24 (2r) (a) 1. At the time of the delinquent act the juvenile was under an
2 order of a ~~tribe's~~ tribal court, other than a tribal court order relating to adoption,
3 physical placement or visitation with the juvenile's parent, or permanent
4 guardianship.

5 **SECTION 275.** 938.24 (2r) (a) 2. of the statutes is amended to read:

6 938.24 (2r) (a) 2. At the time of the delinquent act the juvenile was physically
7 outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe of the tribal
8 court and any off-reservation trust land of either that Indian tribe or a member of
9 that Indian tribe as a direct consequence of a tribal court order under subd. 1.,
10 including a tribal court order placing the juvenile in the home of a relative of the
11 juvenile who on or after the date of the tribal court order resides physically outside
12 the boundaries of a reservation and off-reservation trust land.

13 **SECTION 276.** 938.24 (2r) (b) of the statutes is amended to read:

14 938.24 (2r) (b) If the intake worker is notified by an official of the Indian tribe
15 that a petition relating to the delinquent act has been or may be filed in tribal court,
16 the intake worker shall consult with tribal officials, unless the intake worker
17 determines under sub. (4) that the case should be closed. After the consultation, the
18 intake worker shall determine whether the best interests of the juvenile and of the
19 public would be served by having the matter proceed solely in tribal court. If the
20 intake worker determines that the best interests of the juvenile and of the public
21 would be served by having the matter proceed solely in tribal court, the intake
22 worker shall close the case. If the intake worker determines that the best interests
23 of the juvenile and of the public would not be served by having the matter proceed
24 solely in tribal court, the intake worker shall proceed under sub. (3) or (4).

25 **SECTION 277.** 938.243 (1) (e) of the statutes is amended to read:

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1 938.243 (1) (e) The right of ~~the juvenile~~ to counsel under s. 938.23.

2 **SECTION 278.** 938.25 (2g) (title) of the statutes is amended to read:

3 938.25 (2g) (title) ~~AMERICAN INDIAN JUVENILE; CONSULTATION WITH TRIBAL COURT.~~

4 **SECTION 279.** 938.255 (1) (cm) of the statutes is amended to read:

5 938.255 (1) (cm) If the petition is initiating proceedings ~~other than proceedings~~
6 ~~under s. 938.12, 938.125 or 938.13 (12)~~ under s. 938.13 (4), (6), (6m), or (7), whether
7 the juvenile may be subject to the federal Indian Child Welfare Act, 25 USC 1901 to
8 1963, and, if the juvenile may be subject to that act, the names and addresses of the
9 juvenile's Indian custodian, if any, and Indian tribe, if known.

10 **SECTION 280.** 938.255 (1) (cr) 1. a. of the statutes is amended to read:

11 938.255 (1) (cr) 1. a. The juvenile is an ~~American~~ Indian juvenile.

12 **SECTION 281.** 938.255 (1) (cr) 1. b. of the statutes is amended to read:

13 938.255 (1) (cr) 1. b. At the time of the alleged delinquent act, the juvenile was
14 under an order of a ~~tribe's~~ tribal court, other than a tribal court order relating to
15 adoption, physical placement or visitation with the juvenile's parent, or permanent
16 guardianship.

17 **SECTION 282.** 938.255 (1) (cr) 1. c. of the statutes is amended to read:

18 938.255 (1) (cr) 1. c. At the time of the delinquent act the juvenile was
19 physically outside the boundaries of ~~that tribe's~~ the reservation of the Indian tribe
20 of the tribal court and any off-reservation trust land of either that Indian tribe or a
21 member of that Indian tribe as a direct consequence of a tribal court order under
22 subd. 1. b., including a tribal court order placing the juvenile in the home of a relative
23 of the juvenile who on or after the date of the tribal court order resides physically
24 outside the boundaries of a reservation and off-reservation trust land.

25 **SECTION 283.** 938.255 (1) (cr) 2. of the statutes is amended to read:

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1 938.255 (1) (cr) 2. If the statement under subd. 1. is included in the petition and
2 if the intake worker, district attorney, or corporation counsel has been notified by an
3 official of the Indian tribe that a petition relating to the delinquent act has been or
4 may be filed in tribal court with respect to the alleged delinquent act, a statement
5 to that effect.

6 **SECTION 284.** 938.255 (1) (g) of the statutes is created to read:

7 938.255 (1) (g) If the juvenile is or may be an Indian juvenile and is alleged to
8 come within the provisions of s. 938.13 (4), (6), (6m), or (7), reliable and credible
9 information showing that continued custody of the juvenile by the juvenile's parent
10 or Indian custodian is likely to result in serious emotional or physical damage to the
11 juvenile under s. 938.028 (4) (d) 1. and reliable and credible information showing that
12 the person who took the juvenile into custody and the intake worker have made
13 active efforts under s. 938.028 (4) (d) 2. to prevent the breakup of the Indian family
14 and that those efforts have proved unsuccessful. If the juvenile is or may be an
15 Indian juvenile, is alleged to come within the provisions of s. 938.13 (4), (6), (6m), or
16 (7), and is being held in custody outside of his or her home, the petition shall set forth
17 with specificity both the information required under this paragraph and the
18 information required under par. (f).

19 **SECTION 285.** 938.255 (2) of the statutes is amended to read:

20 938.255 (2) If any of the facts in sub. (1) (a) to (cr) ~~and~~, (f), and (g) are not known
21 or cannot be ascertained by the petitioner, the petition shall so state.

22 **SECTION 286.** 938.255 (4) of the statutes is amended to read:

23 938.255 (4) COPY TO JUVENILE, PARENTS, AND OTHERS. A copy of the petition shall
24 be given to the juvenile and to the parents, guardian, legal custodian and physical
25 custodian. If the juvenile is an Indian juvenile who is alleged to come within the

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1 provisions of s. 938.13 (4), (6), (6m), or (7), a copy of the petition shall also be given
2 to the Indian juvenile's Indian custodian and tribe.

3 **SECTION 287.** 938.27 (3) (a) 1. of the statutes is amended to read:

4 938.27 (3) (a) 1. The court shall notify, under s. 938.273, the juvenile, any
5 parent, guardian, and legal custodian of the juvenile, any foster parent, treatment
6 foster parent, or other physical custodian described in s. 48.62 (2) of the juvenile, and
7 any person specified in par. (b) or (d), if applicable, of all hearings involving the
8 juvenile under this subchapter, except hearings on motions for which notice must be
9 provided only to the juvenile and his or her counsel. If parents entitled to notice have
10 the same place of residence, notice to one constitutes notice to the other. The first
11 notice to any interested party, foster parent, treatment foster parent, or other
12 physical custodian described in s. 48.62 (2) shall be in writing and may have a copy
13 of the petition attached to it. Notices of subsequent hearings may be given by
14 telephone at least 72 hours before the time of the hearing. The person giving
15 telephone notice shall place in the case file a signed statement of the date and time
16 notice was given and the person to whom he or she spoke.

17 **SECTION 288.** 938.27 (3) (d) of the statutes is created to read:

18 938.27 (3) (d) If the petition that was filed relates to facts concerning a situation
19 under s. 938.13 (4), (6), (6m), or (7) involving an Indian juvenile, the court shall notify,
20 under s. 938.273, the Indian juvenile's Indian custodian and tribe and that Indian
21 custodian or tribe may intervene at any point in the proceeding.

22 **SECTION 289.** 938.27 (4) (b) of the statutes is amended to read:

23 938.27 (4) (b) Advise the juvenile and any other party, if applicable, of his or
24 her right to legal counsel regardless of ability to pay.

25 **SECTION 290.** 938.273 (1) (a) of the statutes of the statutes is amended to read:

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1 938.273 (1) (a) ~~Service~~ Except as provided in pars. (ag), (ar), and (b), service of
2 summons or notice required by s. 938.27 may be made by mailing a copy of the
3 summons or notice to the ~~persons~~ person summoned or notified. If

4 (ar) Except as provided in par. (b), if the ~~persons~~ person, other than a person
5 specified in s. 938.27 (4m), ~~fail~~ fails to appear at the hearing or otherwise to
6 acknowledge service, a continuance shall be granted, ~~except as provided in par. (b),~~
7 and service shall be made personally by delivering to the ~~persons~~ person a copy of the
8 summons or notice; except that if the court determines that it is impracticable to
9 serve the summons or notice personally, ~~it~~ the court may order service by certified
10 mail addressed to the last-known ~~addresses~~ address of the ~~persons~~ person.

11 **SECTION 291.** 938.273 (1) (ag) of the statutes is created to read:

12 938.273 (1) (ag) In a proceeding under s. 938.13 (4), (6), (6m), or (7), service of
13 summons or notice required by s. 938.27 to an Indian juvenile's parent, Indian
14 custodian, or tribe shall be made as provided in s. 938.028 (4) (a).

15 **SECTION 292.** 938.273 (1) (b) of the statutes is amended to read:

16 938.273 (1) (b) The court may refuse to grant a continuance when the juvenile
17 is being held in secure custody, but if the court so refuses, ~~it~~ the court shall order that
18 service of notice of the next hearing be made personally or by certified mail to the
19 last-known address of the person who failed to appear at the hearing.

20 **SECTION 293.** 938.273 (1) (c) of the statutes is renumbered 938.273 (1) (c)
21 (intro.) and amended to read:

22 938.273 (1) (c) (intro.) Personal service shall be made at least 72 hours before
23 the hearing. Mail shall be sent at least 7 days before the hearing, ~~except that when~~
24 as follows:

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1 1. When the petition is filed under s. 938.13 and the person to be notified lives
2 outside the state, the mail shall be sent at least 14 days before the hearing.

3 **SECTION 294.** 938.273 (1) (c) 2. of the statutes is created to read:

4 938.273 (1) (c) 2. When a petition under s. 938.13 (4), (6), (6m), or (7) involves
5 an Indian juvenile and the person to be notified is the Indian juvenile's parent,
6 Indian custodian, or tribe, the mail shall be sent so that it is received by the person
7 to be notified at least 10 days before the time of the hearing or by the U.S. secretary
8 of the interior at least 25 days before the time of the hearing.

9 **SECTION 295.** 938.299 (6) (d) of the statutes is amended to read:

10 938.299 (6) (d) The court may stay the proceedings under this chapter pending
11 the outcome of the paternity proceedings under subch. IX of ch. 767 if the court
12 determines that the paternity proceedings will not unduly delay the proceedings
13 under this chapter and the determination of paternity is necessary to the court's
14 disposition of the juvenile if the juvenile is found to be in need of protection or services
15 or if the court determines that the paternity proceedings may result in a finding that
16 the juvenile is an Indian juvenile and in a petition by the juvenile's parent, Indian
17 custodian, or tribe for transfer of the proceeding to the jurisdiction of the tribe.

18 **SECTION 296.** 938.299 (9) (title) of the statutes is amended to read:

19 938.299 (9) (title) ~~AMERICAN~~ INDIAN JUVENILE; TRIBAL COURT INVOLVEMENT.

20 **SECTION 297.** 938.299 (9) (a) of the statutes is amended to read:

21 938.299 (9) (a) If a petition under s. 938.12 or 938.13 (12) includes the
22 statement in s. 938.255 (1) (cr) 2. or if the court is informed during a proceeding under
23 s. 938.12 or 938.13 (12) that a petition relating to the delinquent act has been filed
24 in a tribe's tribal court with respect to a juvenile to whom the circumstances specified
25 in s. 938.255 (1) (cr) 1. apply, the court shall stay the proceeding and communicate

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1 with the tribal court in which the other proceeding is or may be pending to discuss
2 which court is the more appropriate forum.

3 **SECTION 298.** 938.299 (10) of the statutes is created to read:

4 938.299 (10) If at any point in a proceeding under s. 938.13 (4), (6), (6m), or (7)
5 the court determines that the juvenile is or may be an Indian juvenile, the court shall
6 provide notice of the proceeding to the juvenile's parent, Indian custodian, and tribe
7 in the manner specified in s. 938.028 (4) (a). The next hearing in the proceeding may
8 not be held until at least 10 days after receipt of the notice by the parent, Indian
9 custodian, and tribe or until at least 25 days after receipt of the notice by the U.S.
10 secretary of the interior. On request of the parent, Indian custodian, or tribe, the
11 court shall grant a continuance of up to 20 additional days to enable the requester
12 to prepare for that hearing.

13 **SECTION 299.** 938.30 (1) of the statutes is amended to read:

14 938.30 (1) TIME OF HEARING. Except as provided in this subsection and s.
15 938.299 (10), the hearing to determine the juvenile's plea to a citation or a petition
16 under s. 938.12, 938.125, or 938.13 (12) or (14), or to determine whether any party
17 wishes to contest an allegation that the juvenile is in need of protection or services
18 under s. 938.13 (4), (6), (6m), or (7) or (14) shall take place on a date which allows
19 reasonable time for the parties to prepare but is within 30 days after the filing of a
20 petition or issuance of a citation for a juvenile who is not being held in secure custody
21 or within 10 days after the filing of a petition or issuance of a citation for a juvenile
22 who is being held in secure custody. In a municipal court operated jointly by 2 or more
23 cities, towns or villages under s. 755.01 (4), the hearing to determine the juvenile's
24 plea shall take place within 45 days after the filing of a petition or issuance of a
25 citation for a juvenile who is not being held in secure custody.