State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–1628/P3
GMM:wlj:jm

~~PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION~~ STET

LPS: I fixed the props for the pref note components.
① Text note: pref = below=0, except → Very last should remain below=0.1.
② Subheading note: pref = top=0.05, bottom=0, left=0.4. Thanks.

Regen

AN ~~ACT~~ ***to repeal*** 48.428 (6) (b); ***to renumber*** 938.02 (1); ***to renumber and amend*** 48.33 (5), 48.428 (6) (a), 48.93 (2) and 938.33 (5); ***to amend*** 48.028 (2) (b) and (c), 48.028 (2) (f), 48.028 (3) (f), 48.23 (2g), 48.255 (1) (c), 48.355 (2) (b) 2., 48.357 (1) (am) 1., 48.357 (1) (c) 2., 48.357 (2m) (b), 48.38 (4) (fg) 2., 48.426 (3) (c), 48.83 (1), 48.837 (1r) (c), 48.88 (2) (a) (intro.), 48.92 (2), 48.93 (1d), 938.028 (3) (f), 938.255 (1) (c), 938.355 (2) (b) 2., 938.357 (1) (am) 1., 938.357 (1) (c) 2., 938.357 (2m) (b) and 938.38 (4) (fg) 2.; and ***to create*** 48.02 (1c), 48.028 (2) (i), 48.33 (5) (b), 48.355 (2) (b) 2g., 48.357 (1) (am) 1r., 48.357 (1) (c) 2g., 48.357 (2m) (bg), 48.425 (1) (h), 48.429, 48.43 (2) (d), 48.88 (2) (d), 48.93 (1m), 48.93 (2) (a), 938.02 (1c), 938.028 (2) (f), 938.33 (5) (b), 938.355 (2) (b) 2g., 938.357 (1) (am) 1r., 938.357 (1) (c) 2g. and 938.357 (2m) (bg) of the statutes; **relating to:** posttermination of parental rights contact between a child and a birth relative of the child; disclosure of the name and address of an out–of–home placement of a child; sharing of home study reports with another agency; elimination of home studies for certain proposed adoptive parents; disclosure of the name and

last–known address of a proposed adoptive parent of a child to an agency that is determining the availability of an adoptive placement for a sibling of the child; providing full faith and credit to a tribal court proceeding for a suspension of parental rights or an adoption under tribal law or custom; and jurisdiction over and venue for an adoption petition.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Permanency for Young Children in the Child Welfare System.

Posttermination Contact Agreement

Under current law, a termination of parental rights (TPR) order permanently severs all legal rights and duties between a birth parent and the child. Current law does, however, permit the court assigned to exercise jurisdiction under the Children's Code (juvenile court) to order visitation by a birth parent of a child placed in sustaining care following a TPR. Current law also permits the juvenile court, in the case of a child who is adopted by a stepparent or relative, to grant reasonable visitation rights to a relative of the child who has maintained a relationship similar to a parent–like relationship with the child if the juvenile court determines that the visitation is in the best interests of the child and that the relative will not undermine the adoptive parents' relationship with the child.

Also under current law, the juvenile court is required to consider certain factors in determining whether TPR would be in the best interests of the child. One of those factors is whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever those relationships. The Wisconsin Supreme Court held, in *State v. Margaret H.*, 2000 WI 42, that the severance of substantial relationships factor requires the juvenile court to examine the impact of a legal severance of those relationships on the broader relationships existing between the child and his or her family and that the juvenile court, in its discretion, may afford due weight to an adoptive parent's stated intent to permit continued visitation between the child and his or her pretermination family, even though such a promise is legally unenforceable after TPR and adoption.

This bill permits a posttermination contact agreement to be entered into between the proposed adoptive parents or guardian of a child and a relative of the child at any time

before a TPR order is granted if: 1) the child is in the legal custody or under the supervision or guardianship of an agency; and 2) the child, if 12 years of age or over, consents to the terms of the agreement.

Terms of the Agreement

Under the bill, a posttermination contact agreement may provide for any of the following:

1. Visitation between the child and a relative of the child.

2. Future contact and communication between the child, adoptive parent, or guardian and a relative of the child.

3. The sharing of information about the child in the future between the adoptive parent or guardian and a relative of the child.

4. The maintenance and sharing of the medical and genetic history of any relative who is a party to the agreement.

A posttermination contact agreement must contain: 1) an acknowledgement by all relatives who are parties to the agreement that, subject to certain exceptions under current law, the TPR and adoption are irrevocable and that failure by a party to comply with the agreement is not grounds to revoke the TPR or adoption; 2) an acknowledgement by the proposed adoptive parents or guardian that the agreement is enforceable by any person who is permitted posttermination visitation, contact, communication, or sharing of information under the agreement; and 3) a statement by all parties to the agreement that the agreement was entered into voluntarily and with understanding of the terms of the agreement, that no promises or threats were made to coerce any person into entering into the agreement, and that the parties have not relied on any representations other than those contained in the agreement.

Approval of the Agreement

Under the bill, at the time a TPR order is granted, a juvenile court may approve a posttermination contact agreement if: 1) the child and the parent meet the conditions for entering into the agreement; 2) the agreement contains the required provisions; 3) the parties to the agreement, including the parent and child, if 12 years of age or over, sign the agreement; 4) the agency, the child's guardian ad litem, or, in the case of an Indian child, the tribal child welfare department of the Indian child's tribe files the agreement; 5) the juvenile court addresses all parties to the agreement and determines that the agreement was entered into voluntarily and with understanding of the terms of the agreement, that no promises or threats were made to coerce any person into entering into the agreement, and that the parties have not relied on any representations other than those contained in the agreement; 6) the agency, the child's guardian ad litem, and, in the case of an Indian child, the Indian child's tribe submit to the juvenile court recommendations concerning the granting of posttermination visitation, contact, communication, or sharing of information as provided for in the agreement; 7) the juvenile court determines that the relative will not undermine the adoptive parents' or guardian's relationship with the child; and 8) the juvenile court determines that granting posttermination visitation, contact, communication, or sharing of information as provided for in the agreement would be in the best interests of the child.

In determining whether granting posttermination visitation, contact, communication, or sharing of information as provided for in the agreement would be in the best interests of the child, the juvenile court must consider: 1) whether the child has substantial relationships with the person who would have visitation, contact, communication, or sharing of information under the agreement, and whether it would be harmful to the child not to preserve those relationships; 2) any special needs of the child

and how those special needs would be affected by visitation, contact, communication, or sharing of information as provided for in the agreement; 3) the specific terms of the agreement and the likelihood that the parties will cooperate in complying with the agreement; 4) the recommendations of the agency, the child's guardian ad litem, and, in the case of an Indian child, the Indian child's tribe; and 5) any other factors that are relevant to the best interests of the child.

The bill requires the juvenile court, in evaluating the TPR factor of a child's substantial relationship with pretermination family members, to consider the terms of any posttermination contact agreement that has been entered into with respect to the child and permits the juvenile court to consider any other agreement by a proposed adoptive parent or guardian to permit contact between the child and his or her pretermination family after adoption of the child.

Enforcement of the Agreement

Under the bill, a posttermination contact agreement that has been approved by the juvenile court is enforceable by the juvenile court. Before petitioning the juvenile court for specific performance of the agreement, however, the petitioner must participate, or attempt to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the dispute giving rise to the filing of the petition.

If the juvenile court finds that a person is not in compliance with the agreement, that enforcement of the agreement is in the best interests of the child, and that the petitioner, before filing the petition, participated, or attempted to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the dispute giving rise to the filing of the petition, the juvenile court must issue an order requiring specific performance of the agreement, which order is the sole remedy for noncompliance with the agreement.

Termination or Modification of the Agreement

The bill provides that a posttermination contact agreement that has been approved by the juvenile court may be terminated or modified by agreement of the parties, which the juvenile court must approve if it finds that the termination or modification would be in the best interests of the child.

The juvenile court may also terminate or modify an agreement if a party shows that the termination or modification would be in the best interests of the child, or that there has been a substantial change in circumstances since the entry of the last order affecting the agreement, and that the petitioner, before filing the petition, participated, or attempted to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the dispute giving rise to the filing of the petition. An order upon a petition to modify an approved posttermination contact agreement may limit, restrict, condition, or decrease visitation, contact, communication, or sharing of information between the child and a relative of the child, but may not expand that visitation, contact, communication, or sharing of information or place any new obligations on the adoptive parent or guardian.

Sharing of Home Study Report

Under current law, records and papers pertaining to an adoption proceeding may not be disclosed except under certain statutory exceptions or by order of the juvenile court for good cause shown.

The bill permits a proposed adoptive parent whose home is the subject of an investigation to determine whether the home is suitable for the child (home study) to ask the agency conducting the home study to disclose its report of the home study to another

agency authorized to place children for adoption, the state adoption information exchange, or the state adoption center. Within ten days after receipt of such a request, the agency must disclose the report to the person named in the request, unless within those ten days the agency petitions the juvenile court for an order permitting the agency not to disclose the report, to restrict the information to be disclosed, or to defer disclosure of the report to a later date or for such other appropriate relief as the agency may request and the juvenile court finds good cause for granting the relief requested.

Disclosure of Name and Address of an Out–of–Home Placement

Under current law, if a child or juvenile is removed from the home and placed in custody, the child in need of protection or services (CHIPS) petition or petition filed under the Juvenile Justice Code must include the place where the child or juvenile is being held unless there is reasonable cause to believe disclosure would result in imminent danger to the child, juvenile, or physical custodian.

Also, before a child is adjudged to be in need of protection or services, the Department of Children and Families (DCF), a county department of human or social services (county department), or a child welfare agency must submit a report to the juvenile court that includes the name and address of the foster parent if the report recommends out–of–home placement (court report). A copy of the court report must be given to the child's parent or guardian. However, the juvenile court may order that the name and address of the foster parent be withheld and not included in the copy of the court report given to the child's parent or guardian if the juvenile court finds that disclosure would result in imminent danger to the child or to the foster parent. The juvenile court must hold a hearing on this matter prior to ordering that the information be withheld.

The juvenile court may also order the name and address of a foster parent be withheld in the copy of the dispositional order given to the child's parent or guardian if the juvenile court holds a hearing and finds that disclosure would result in imminent harm to the child or foster parent. Current law does not include a confidentiality provision for withholding this information if there is a change in out–of–home placement.

This bill creates a procedure for a juvenile court to order the name and address of any out–of–home placement to be withheld from the copy of the CHIPS petition, petition filed under the Juvenile Justice Code, court report, or dispositional order that is given to a child or juvenile's parent or guardian if, after holding a hearing on the matter with notice given to the parent or guardian, the juvenile court finds that disclosure is not in the best interest of the child.

Likewise, the bill also permits the name and address of a proposed out–of–home placement to be withheld from the change–in–placement notice given to the child or juvenile's parent or guardian, and if the child or juvenile is an Indian child or Indian juvenile, the Indian child or Indian juvenile's parent or Indian custodian, if the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel reasonably believes that withholding this information is in the best interest of the child. The juvenile court must then hold a hearing on this matter after giving notice to the child or juvenile's parent or guardian, and if the child or juvenile is an Indian child or juvenile, the Indian child or juvenile's custodian and tribe. The juvenile court must order that this information be disclosed if it finds that withholding the information is not in the best interest of the child or juvenile.

Home Study of An Adoptive Parent

Under current law, after an adoption petition is filed, the juvenile court must order an investigation to determine whether the child is a proper subject for adoption and whether the proposed adoptive parent's home is suitable for the child. The home of a

proposed adoptive parent must be investigated for adoption purposes even if the proposed adoptive parent has obtained a license to operate a foster home.

This bill eliminates the requirement for a home study to be conducted for purposes of an adoption if all of the following apply: 1) the proposed adoptive parent's home is a foster home certified to provide level 2 care; 2) the proposed adoptive parent is licensed to operate his or her home as a foster home certified to provide level 2 care and the license is effective at the time the adoption petition is filed; 3) the proposed adoptive parent has never had a license to operate a foster home revoked or suspended; 4) the child to be adopted has resided in the home for 12 consecutive months or more immediately prior to the filing of the adoption petition; and 5) the foster home investigation was conducted in accordance with standards established by DCF for investigating a foster home that will be converting into an adoptive home.

Disclosure of Last Known Address of an Adoptive Parent or Proposed Adoptive Parent

Current law requires DCF, a county department, or a child welfare agency to include in a child's permanency plan, which is a plan designed to ensure that the child quickly attains a placement or home providing long–term stability, a statement as to the availability of a safe and appropriate placement for the child with a foster parent, adoptive parent, or proposed adoptive parent of a sibling of the child. Current law also requires DCF, a county department, or a child welfare agency, before placing for adoption a child who has a sibling who has been adopted or has been placed for adoption, to consider the availability of a placement for adoption with an adoptive parent or proposed adoptive parent of a sibling of the child who is identified in the child's permanency plan or who is otherwise known by DCF, the county department, or the child welfare agency. However, those records and papers must be kept in a separate locked file and may not be disclosed except under certain exceptions or by order of the juvenile court for good cause shown.

This bill permits records and papers pertaining to an adoption proceeding to be disclosed for purposes of determining the availability of a placement for a child with an adoptive parent or proposed adoptive parent of a sibling of the child.

Tribal Court Proceeding for a Suspension of Parental Rights or an Adoption Under Tribal Law or Custom

In 2009, Wisconsin incorporated the Federal Indian Child Welfare Act (ICWA) in the Children's Code and the Juvenile Justice Code.

In very general terms, ICWA applies to certain child custody proceedings in state courts involving an Indian child, and requires certain notices, findings, and placement preferences in state court child custody proceedings under certain circumstances. ICWA provides for tribal court jurisdiction in some circumstances and also provides a process for a tribe to assume exclusive jurisdiction of a state court's child custody proceeding under certain circumstances.

ICWA accords full faith and credit by the state to a tribal court's Indian child custody proceeding, just as the state would to a judicial proceeding of any other governmental entity.

An "Indian child custody proceeding" in a state court means an action for an adoptive placement, an out–of–home care placement, a preadoptive placement, or a TPR. That definition, however, does not include a proceeding in a tribal court for a suspension, rather than a termination, of parental rights, or an adoption under tribal law or custom.

This bill provides definitions for an "adoption under tribal law or custom" and a "suspension of parental rights," and provides that such actions by a tribal court are accorded full faith and credit by a state court.

Jurisdiction and Venue for an Adoption Petition

Under current law, the juvenile court of the county where the proposed adoptive parent or child resides, upon the filing of a petition for adoption or for the adoptive placement of a child, has jurisdiction over the child until the adoption petition is withdrawn, denied, or granted. Similarly, the venue for an adoption petition is the county where the proposed adoptive parent or child resides at the time that the petition is filed. The juvenile court may, however, transfer the case to another juvenile court in the county in which the proposed adoptive parents reside.

This bill ~~expands~~ extends jurisdiction over an adoption petition to ~~also include~~ the juvenile court in the county where the TPR petition was filed ~~and expands venue for an adoption petition to also include the county where the TPR petition was filed~~ and venue for.

SECTION 1. 48.02 (1c) of the statutes is created to read:

48.02 **(1c)** "Adoption under tribal law or custom" means an adoption recognized by an Indian child's tribe that gives a child a permanent parent–child relationship with an individual other than a biological parent.

NOTE: This SECTION provides a definition in the Children's Code for an "adoption under tribal law or custom."

SECTION 2. 48.028 (2) (b) and (c) of the statutes are amended to read:

48.028 **(2)** (b) "Former Indian custodian" means a person who was the Indian custodian of an Indian child before termination or suspension of parental rights to and adoption of the Indian child.

(c) "Former parent" means a person who was the parent of an Indian child before termination or suspension of parental rights to and adoption of the Indian child.

NOTE: This SECTION modifies the definitions of "former Indian custodian" and "former parent" in the Wisconsin Indian Child Welfare Act (WICWA) to specify that a former parent or former Indian custodian in a state court proceeding includes a person who had parental rights or custodial responsibilities prior to a suspension of parental rights by a tribal court.

SECTION 3. 48.028 (2) (f) of the statutes is amended to read:

48.028 **(2)** (f) "Preadoptive placement" means the temporary placement of an Indian child in a foster home, group home, or residential care center for children and youth, in the home of a relative other than a parent, or in the home of a guardian after

a termination or suspension of parental rights but prior to or in lieu of an adoptive placement.

NOTE: This SECTION specifies that a preadoptive placement in a state court proceeding under WICWA includes placement after a suspension of parental rights by a tribal court.

SECTION 4. 48.028 (2) (i) of the statutes is created to read:

48.028 **(2)** (i) "Suspension of parental rights" means a suspension, pursuant to a tribal court order, of all rights, powers, privileges, immunities, duties, and obligations existing between parent and child.

NOTE: This SECTION provides a definition in the Children's Code for a "suspension of parental rights" ordered by a tribal court.

SECTION 5. 48.028 (3) (f) of the statutes is amended to read:

48.028 **(3)** (f) *Full faith and credit.* The state shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe that are applicable to an Indian child custody proceeding, including a proceeding for a suspension of parental rights or an adoption under tribal law or custom, to the same extent that the state gives full faith and credit to the public acts, records, and judicial proceedings of any other governmental entity.

NOTE: This SECTION specifies that a state court must accord full faith and credit to a tribal court's order for a suspension of parental rights or an adoption under tribal law or custom.

SECTION 6. 48.23 (2g) of the statutes is amended to read:

48.23 **(2g)** RIGHT OF INDIAN CHILD'S PARENT OR INDIAN CUSTODIAN TO COUNSEL. Whenever an Indian child is the subject of a proceeding involving the removal of the Indian child from the home of his or her parent or Indian custodian, placement of the Indian child in an out–of–home care placement, or termination or suspension of parental rights to the Indian child, the Indian child's parent or Indian custodian shall have the right to be represented by counsel as provided in subs. (2) and (4).

NOTE: This SECTION specifies that the State Public Defender may provide representation for an Indian child's parent or Indian custodian in a proceeding for a suspension of parental rights to the child.

SECTION 7. 48.255 (1) (c) of the statutes is amended to read:

48.255 **(1)** (c) Whether the child is in custody, and, if so, the place where the child is being held and the time he or she was taken into custody unless there is reasonable cause to believe that such disclosure ~~would result in imminent danger to the child or physical custodian~~ is not in the best interest of the child.

NOTE: This SECTION amends the standard for when the location of a child may not be disclosed in a CHIPS petition. It changes the standard from "imminent danger to the child or physical custodian" to "best interest of the child."

SECTION 8. 48.33 (5) of the statutes is renumbered 48.33 (5) (a) and amended to read:

48.33 **(5)** (a) ~~If~~ Except as provided in par. (b), if the report recommends placement in a foster home, and the name of the foster parent is not available at the time the report is filed, the agency shall provide the court and the child's parent or guardian with the name and address of the foster parent within 21 days after the dispositional order is entered~~, except that the court may order the information withheld from the child's parent or guardian if the court finds that disclosure would result in imminent danger to the child or to the foster parent. After notifying the child's parent or guardian, the court shall hold a hearing prior to ordering the information withheld~~.

SECTION 9. 48.33 (5) (b) of the statutes is created to read:

48.33 **(5)** (b) If the report recommends that a child be placed outside of his or her home, the court may order the name and address of the out–of–home placement to be withheld from the child's parent or guardian if the court finds that disclosure of the name and address of the placement is not in the best interest of the child. After

notifying the child's parent or guardian, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 8 and 9 allow the juvenile court to order the name and address of the recommended out–of–home placement to be withheld from the copy of the court report that is given to the child's parent or guardian if the juvenile court finds that disclosure is not in the best interest of the child. The juvenile court may not order that this information be withheld until a hearing is held on the issue, with notice of the hearing given to the child's parent or guardian.

SECTION 10. 48.355 (2) (b) 2. of the statutes is amended to read:

48.355 **(2)** (b) 2. ~~If~~ Except as provided in subd. 2g., if the child is placed outside the home, the name of the place or facility, including transitional placements, where the child will be cared for or treated, except that if the placement is a foster home and if the name and address of the foster parent is not available at the time of the order, the name and address of the foster parent shall be furnished to the court and the parent within 21 days after the order. ~~If, after a hearing on the issue with due notice to the parent or guardian, the judge finds that disclosure of the identity of the foster parent would result in imminent danger to the child or the foster parent, the judge may order the name and address of the prospective foster parents to be withheld from the parent or guardian.~~

SECTION 11. 48.355 (2) (b) 2g. of the statutes is created to read:

48.355 **(2)** (b) 2g. If the child is placed outside the home, the court may order the name and address of the placement to be withheld from the child's parent or guardian if the court finds that disclosure of the name and address of the placement is not in the best interest of the child. After notifying the child's parent or guardian, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 10 and 11 allow the juvenile court to order the name and address of the out–of–home placement to be withheld from the copy of the CHIPS dispositional order that is given to the child's parent or guardian if the juvenile court finds that disclosure is not in the best interest of the child. The juvenile court may not order that

this information be withheld until a hearing is held on the issue, with notice of the hearing given to the child's parent or guardian.

SECTION 12. 48.357 (1) (am) 1. of the statutes is amended to read:

48.357 **(1)** (am) 1. ~~If~~ Except as provided in subd. 1r., if the proposed change in placement involves any change in placement other than a change in placement specified in par. (c), the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel shall cause written notice of the proposed change in placement to be sent to the child, the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child, the child's court–appointed special advocate, and, if the child is an Indian child who has been removed from the home of his or her parent or Indian custodian, the Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under s. 48.133, written notice shall also be sent to the unborn child by the unborn child's guardian ad litem. If the change in placement involves an adult expectant mother of an unborn child under s. 48.133, written notice shall be sent to the adult expectant mother and the unborn child by the unborn child's guardian ad litem. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

SECTION 13. 48.357 (1) (am) 1r. of the statutes is created to read:

48.357 **(1)** (am) 1r. If the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel reasonably believes that withholding the name and address of the new

placement is in the best interest of the child, then the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel may cause written notice of the proposed change in placement under subd. 1. to be sent to the child's parent or guardian without disclosure of the name and address of the new placement. The court shall hold a hearing to determine whether withholding the name and address of the placement is in the best interest of the child with due notice to the child's parent or guardian, and if the child is an Indian child, the Indian child's Indian custodian and tribe. If, after a hearing on the issue, the court finds that withholding the name and address of the new placement is not in the best interest of the child, the court shall order the name and address to be disclosed to the parent or guardian, and if the child is an Indian child his or her parent or Indian custodian.

NOTE: SECTIONS 12 and 13 allow the name and address of a proposed change in out–of–home placement to be withheld from the written notice of the proposed change in placement that is given to the child's parent or custodian, and if the child is an Indian child, the Indian child's parent or Indian custodian, if the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel reasonably believes that disclosure of this information is not in the best interest of the child.

If the name and address of the new placement is withheld, the juvenile court must hold a hearing to determine whether disclosure of the name and address is in the best interest of the child, after notice is given to the child's parent or custodian, and if the child is an Indian child, the Indian child's parent or Indian custodian and tribe. The juvenile court must order disclosure of the name and address of the placement if it finds that withholding that information is not in the best interest of the child.

SECTION 14. 48.357 (1) (c) 2. of the statutes is amended to read:

48.357 **(1)** (c) 2. The court shall hold a hearing prior to ordering any change in placement requested under subd. 1. ~~Not~~ Except as provided in subd. 2g., not less than 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the child, the parent, guardian, and legal custodian of the child, the child's court–appointed special

advocate, all parties that are bound by the dispositional order, and, if the child is an Indian child, the Indian child's Indian custodian and tribe. Subject to subd. 2r., if all parties consent, the court may proceed immediately with the hearing.

SECTION 15. 48.357 (1) (c) 2g. of the statutes is created to read:

48.357 **(1)** (c) 2g. The court may order the name and address of the requested change in placement to be withheld from the child's parent or guardian, and if the child is an Indian child, his or her parent or Indian custodian, if the court finds that disclosure of the name and address of the placement is not in the best interest of the child. After notifying the child's parent or guardian, and if the child is an Indian child, the Indian child's parent or Indian custodian, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 14 and 15 allow the juvenile court to order that the name and address of a proposed change in placement from an in–home placement to an out–of–home placement not be included in the written notice that is given to the child's parent or custodian, and if the child is an Indian child, the Indian child's parent or Indian custodian, if the juvenile court finds that disclosure of this information is not in the best interest of the child. The juvenile court may not order that this information be withheld until a hearing is held on the issue, with notice of the hearing given to the child's parent or guardian.

SECTION 16. 48.357 (2m) (b) of the statutes is amended to read:

48.357 **(2m)** (b) The court shall hold a hearing prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement. A hearing is not required if the requested or proposed change in placement does not involve a change in placement of a child placed in the child's home to a placement outside the child's home, written waivers of objection to the proposed change in placement are signed by all persons entitled to receive notice under this paragraph, other than a court–appointed special advocate, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the child,

the parent, guardian, and legal custodian of the child, any foster parent or other physical custodian described in s. 48.62 (2) of the child, the child's court–appointed special advocate, all parties who are bound by the dispositional order, and, if the child is an Indian child, the Indian child's Indian custodian and tribe. If the child is the expectant mother of an unborn child under s. 48.133, the court shall also notify the unborn child by the unborn child's guardian ad litem. If the change in placement involves an adult expectant mother of an unborn child under s. 48.133, the court shall notify the adult expectant mother, the unborn child by the unborn child's guardian ad litem, and all parties who are bound by the dispositional order, at least 3 days prior to the hearing. ~~A~~ Except as provided in par. (bg), a copy of the request or proposal for the change in placement shall be attached to the notice. Subject to par. (br), if all of the parties consent, the court may proceed immediately with the hearing.

SECTION 17. 48.357 (2m) (bg) of the statutes is created to read:

48.357 **(2m)** (bg) The court may order that the name and address of the new placement be withheld from the parent or guardian if the court finds that disclosure of the name and address of the new placement is not in the best interest of the child. After notifying the child's parent or guardian, and if the child is an Indian child, the Indian child's Indian custodian and tribe, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 16 and 17 allow the juvenile court to order that the name and address of a proposed change in placement be withheld from the parent or guardian if a change in placement is requested by the child, parent, guardian, legal custodian or Indian custodian of the child, expectant mother, unborn child's guardian ad litem, or any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order. The juvenile court may not order that this information be withheld until a hearing is held on the issue, with notice of the hearing given to the child's parent or guardian.

SECTION 18. 48.38 (4) (fg) 2. of the statutes is amended to read:

48.38 **(4)** (fg) 2. Placement of the child for adoption, including placement for adoption under tribal law or custom.

NOTE: This SECTION provides that, if a child's permanency plan in Indian child custody proceeding in state court includes the goal of placement for adoption, that goal may include placement for adoption under tribal law or custom.

SECTION 19. 48.425 (1) (h) of the statutes is created to read:

48.425 **(1)** (h) A statement as to whether a posttermination contact agreement has been entered into under s. 48.429. If such an agreement has been entered into, the agency or tribal child welfare department shall attach a copy of the agreement to the report.

NOTE: This SECTION requires an agency's report to the juvenile court in a TPR proceeding to state whether or not a posttermination contact agreement has been entered into, and, if so, to include a copy with the report.

SECTION 20. 48.426 (3) (c) of the statutes is amended to read:

48.426 **(3)** (c) Whether the child has substantial relationships with the parent or other family members, and whether it would be harmful to the child to sever ~~these~~ those relationships. In determining whether it would be harmful to the child to sever those relationships, the court shall consider the terms of any posttermination contact agreement that has been entered into under s. 48.429 with respect to the child and may consider any other agreement by a proposed adoptive parent to permit contact between the child and the parent or other family members after adoption of the child.

NOTE: This SECTION requires the juvenile court, in evaluating the best interests of a child for purposes of determining the appropriate disposition of a TPR proceeding, to consider the terms of a posttermination contact agreement in the context of the child's substantial relationships with the parent or any other family member.

SECTION 21. 48.428 (6) (a) of the statutes is renumbered 48.428 (6) and amended to read:

48.428 **(6)** ~~Except as provided in par. (b), the~~ The court may ~~order or prohibit visitation by~~ grant posttermination contact privileges under s. 48.429 to a ~~birth parent~~ relative of a child placed in sustaining care.

NOTE: This SECTION allows the juvenile court to grant posttermination contact privileges to any relative of a child placed in sustaining care after a TPR is ordered.

SECTION 22. 48.428 (6) (b) of the statutes is repealed.

NOTE: This SECTION removes certain restrictions on the juvenile court's discretion whether to order visitation by a parent of a child placed in sustaining care after a TPR is ordered. ~~Under the bill~~, such visitation is covered under a post termination contact agreement authorized under the bill.

SECTION 23. 48.429 of the statutes is created to read:

48.429 Posttermination contact privileges. (1) DEFINITIONS. In this section:

(a) "Approved posttermination contact agreement" means a posttermination contact agreement that has been approved by the court under sub. (4).

(b) "Posttermination contact agreement" means an agreement between a proposed adoptive parent or guardian of a child and a relative of the child that provides for any of the following after termination of parental rights to the child:

1. Visitation between the child and a relative of the child.

2. Future contact and communication between the child, adoptive parent, or guardian and relative of the child.

3. The sharing of information about the child in the future between the adoptive parent or guardian and a relative of the child.

4. The maintenance and sharing of the medical and genetic history of any relative who is a party to the agreement.

(c) "Relative" has the meaning given in s. 48.02 (15), and, in the case of an Indian child, includes an extended family member, as defined in s. 48.028 (2) (am).

(2) POSTTERMINATION CONTACT AGREEMENTS; WHEN PERMITTED. At any time before a termination of parental rights order is granted, a posttermination contact agreement may be entered into between the proposed adoptive parents or guardian of a child and a relative of the child if all of the following conditions are met:

(a) The child is in the legal custody or under the supervision or guardianship of an agency.

(b) The child, if 12 years of age or over, consents to the terms of the agreement.

(3) PROVISIONS OF POSTTERMINATION CONTACT AGREEMENT. A posttermination contact agreement shall contain all of the following provisions:

(a) Except as provided in this paragraph, an acknowledgement by all relatives who are parties to the agreement that, subject to ss. 48.028 (5) (c) and (6) and 48.46 (1m) and (2), the termination of parental rights to and adoption of the child are irrevocable and that failure by a party to comply with the agreement is not grounds to revoke the termination of parental rights or adoption. A posttermination contact agreement in which one of the parties is a parent, as defined in s. 48.02 (13) for purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, is not required to contain the acknowledgement described in this paragraph.

(b) An acknowledgement by the proposed adoptive parents or guardian that the agreement is enforceable by any person who is permitted posttermination visitation, contact, communication, or sharing of information under the agreement.

(c) A statement by all parties to the agreement that the agreement was entered into voluntarily and with understanding of the terms of the agreement, that no promises or threats were made to coerce any person into entering into the agreement,

and that the parties have not relied on any representations other than those contained in the agreement.

(4) APPROVAL OF GRANTING POSTTERMINATION CONTACT AGREEMENT. At the time a termination of parental rights order is granted, a court may approve a posttermination contact agreement if all of the following conditions are met:

(a) The child and the parent meet the conditions specified in sub. (2).

(b) The agreement contains the provisions specified in sub. (3) (a) to (c).

(c) The agreement is signed by all parties to the agreement including the parent and child, if 12 years of age or over. If a parent who is under 12 years of age or other relative who is a child is to be granted posttermination visitation, contact, communication, or sharing of information under the agreement, the parent, guardian, legal custodian, or Indian custodian of the parent or other relative shall sign the agreement on behalf of the parent or other relative.

(d) The agency having guardianship, legal custody, or supervision of the child, the child's guardian ad litem or, in the case of an Indian child, the tribal child welfare department of the Indian child's tribe files the agreement with the court. If the agency or tribal child welfare department files the agreement, the agency or tribal child welfare department shall comply with this paragraph by including in the court report under s. 48.425 (1) the statement under s. 48.425 (1) (h) and attaching the agreement to the court report.

(e) The court addresses all parties to the agreement and determines by clear and convincing evidence that the agreement was entered into voluntarily and with understanding of the terms of the agreement, that no promises or threats were made to coerce any person into entering into the agreement, and that the parties have not relied on any representations other than those contained in the agreement.

(f) The agency having guardianship, legal custody, or supervision of the child, the child's guardian ad litem, and, in the case of an Indian child, the Indian child's tribe submit to the court recommendations concerning the granting of posttermination visitation, contact, communication, or sharing of information as provided for in the agreement.

(g) The court determines that the relative will not undermine the guardian or adoptive parent's or parents' relationship with the child.

(h) The court determines by clear and convincing evidence that granting posttermination visitation, contact, communication, or sharing of information as provided for in the agreement would be in the best interests of the child. In determining whether granting posttermination visitation, contact, communication, or sharing of information as provided for in the agreement would be in the best interests of the child, the court shall consider all of the following factors:

1. Whether the child has substantial relationships with the person who would have visitation, contact, communication, or sharing of information under the agreement, and whether it would be harmful to the child not to preserve those relationships.

2. Any special needs of the child and how those special needs would be affected by visitation, contact, communication, or sharing of information as provided for in the agreement.

3. The specific terms of the agreement and the likelihood that the parties will cooperate in complying with the agreement.

4. The recommendations of the agency having guardianship, legal custody, or supervision of the child, the child's guardian ad litem, and, in the case of an Indian child, the Indian child's tribe.

5. Any other factors that are relevant to the best interests of the child under s. 48.01 (1) (intro.) or, in the case of an Indian child, the best interests of the Indian child under s. 48.01 (2).

(5) ENFORCEMENT OF POSTTERMINATION CONTACT AGREEMENT. (a) A posttermination contact agreement is enforceable only if the agreement is approved by the court under sub. (4). Any party to an approved posttermination contact agreement may petition the court that approved the agreement for specific performance of the agreement. The petition shall allege facts sufficient to show that a person who is bound by the agreement is not in compliance with the agreement, that enforcement of the agreement is in the best interests of the child in light of the factors specified in sub. (4) (h), and that the petitioner, before filing the petition, participated, or attempted to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the dispute giving rise to the filing of the petition.

(b) The court shall set a date and time for a hearing on a petition filed under par. (a) and shall provide notice of the hearing to the petitioner and to all other parties to the approved posttermination contact agreement, the agency that had guardianship, legal custody, or supervision of the child before the termination of parental rights, and, in the case of an Indian child, the Indian child's tribe. The hearing shall take place on a date that allows the persons notified of the hearing a reasonable time to prepare, but is no more than 30 days after the filing of the petition.

(c) If the court finds by clear and convincing evidence that any person bound by an approved posttermination contact agreement is not in compliance with the agreement; that enforcement of the agreement is in the best interests of the child in light of the factors specified in sub. (4) (h); and that the petitioner, before filing the

petition, participated, or attempted to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the dispute giving rise to the filing of the petition, the court shall issue an order requiring specific performance of the agreement. An order for specific performance shall be the sole remedy for any noncompliance with the agreement.

(d) A court may not award damages, costs, or attorney fees or revoke a termination of parental rights order or an order of adoption because a party to a posttermination contact agreement fails to comply with the agreement.

(6) TERMINATION OR MODIFICATION OF POSTTERMINATION CONTACT AGREEMENT. (a) The parties to an approved posttermination contact agreement may agree to terminate or modify the agreement. If the parties agree to terminate or modify the agreement and if the child, if 12 years of age or over, consents to the termination or modification, the parties shall sign and file with the court that approved the agreement the modified agreement or a stipulation terminating the agreement. If, after reviewing the stipulation or modified agreement, the court finds by clear and convincing evidence that termination or modification of the agreement would be in the best interests of the child in light of the factors specified in sub. (4) (h), the court shall, without a hearing, approve the termination or modification of the agreement.

(b) 1. Any party to an approved posttermination contact agreement may petition the court that approved the agreement to terminate or modify the agreement. The petition shall allege facts sufficient to show that termination or modification of the agreement would be in the best interests of the child in light of the factors specified in sub. (4) (h), or that there has been a substantial change in circumstances since the entry of the last order affecting the agreement, and that the petitioner, before filing the petition, participated, or attempted to participate, in good

faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the issue giving rise to the filing of the petition.

2. The court shall set a date and time for a hearing on a petition under subd. 1. and shall provide notice of the hearing to the petitioner and to all other parties to the approved posttermination contact agreement, the agency that had guardianship, legal custody, or supervision of the child before the termination of parental rights, and, in the case of an Indian child, the Indian child's tribe. The hearing shall take place on a date that allows the persons notified of the hearing a reasonable time to prepare, but is no more than 30 days after the filing of the petition.

3. Notwithstanding s. 48.01 (1) (intro.) and (2), the court may terminate or modify the approved posttermination contact agreement if the court finds by clear and convincing evidence that termination or modification of the agreement would be in the best interests of the child in light of the factors specified in sub. (4) (h), or that there has been a substantial change in circumstances since the entry of the last order affecting the agreement, and that the petitioner, before filing the petition, participated, or attempted to participate, in good faith in formal or informal mediation or other appropriate dispute resolution proceedings to resolve the issue giving rise to the filing of the petition. An order to modify an approved posttermination contact agreement may limit, restrict, condition, or decrease visitation, contact, communication, or sharing of information between the child and a birth relative of the child, but may not expand, enlarge, or increase that visitation, contact, communication, or sharing of information or place any new obligation on the adoptive parent or agency having guardianship, legal custody, or supervision of the child.

NOTE: This SECTION creates a statutory section to govern posttermination contact privileges, specifying who may enter into such an agreement, what must be included in the agreement, the conditions for the juvenile court's approval of such an agreement, and the procedures for enforcement, modification, or termination of such an agreement.

SECTION 24. 48.43 (2) (d) of the statutes is created to read:

48.43 **(2)** (d) A court may approve a posttermination contact agreement under s. 48.429.

NOTE: This SECTION specifies that although a TPR order permanently severs all legal rights and duties between the parent and child, the juvenile court may approve a posttermination contact agreement.

SECTION 25. 48.83 (1) of the statutes is amended to read:

48.83 **(1)** Except as provided in s. 48.028 (3) (b), the court of the county where the proposed adoptive parent or child resides and the court of the county where the termination of parental rights petition was filed under s. 48.42, upon the filing of a petition for adoption or for the adoptive placement of a child, ~~has~~ have jurisdiction over the child until the petition is withdrawn, denied, or granted. Venue ~~shall~~ for a petition for adoption may be in the county where the proposed adoptive parent or child resides at the time the petition is filed or in the county where the termination of parental rights petition was filed under s. 48.42. The court may transfer the case to a court in the county in which the proposed adoptive parents reside.

NOTE: This SECTION ~~expands~~ jurisdiction over an adoption petition to ~~include~~ the juvenile court in the county where the TPR petition was filed ~~and expands venue for an adoption petition to include the county where the TPR petition was filed~~.

SECTION 26. 48.837 (1r) (c) of the statutes is amended to read:

48.837 **(1r)** (c) The department, a county department under s. 48.57 (1) (e) or (hm), or a child welfare agency licensed under s. 48.60 may place a child under par. (a) in the home of a proposed adoptive parent or parents who reside outside this state if the placement is made in compliance with s. 48.98, 48.988, or 48.99, whichever is applicable, if the home meets the criteria established by the laws of the state where

the proposed adoptive parent or parents reside for a preadoptive placement of a child in the home of a nonrelative, and if an appropriate agency in that state has completed an investigation of the home as required under s. 48.88 (2) (a) and filed a report and recommendation concerning the home with the department, county department, or licensed child welfare agency.

SECTION 27. 48.88 (2) (a) (intro.) of the statutes is amended to read:

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

SECTION 28. 48.88 (2) (d) of the statutes is created to read:

48.88 **(2)** (d) An investigation to determine whether the petitioner's home is suitable for the child is not required if all of the following apply:

1. The petitioner's home is a foster home that is certified to provide level 2 care, as defined in the rules promulgated under s. 48.62 (8) (a).

2. The petitioner is licensed to operate his or her home as a foster home that is certified to provide level 2 care, as defined in the rules promulgated under s. 48.62 (8) (a), and this license is effective at the time the adoption petition is filed.

3. The petitioner has never had a license to operate a foster home revoked or suspended.

4. The child who is the subject of the adoption petition has resided in the petitioner's home for 12 consecutive months or more immediately prior to the filing of the adoption petition.

5. The foster home investigation was conducted in accordance with standards established by the department for investigating a foster home that will be converting into an adoptive home.

NOTE: SECTIONS 26, 27, and 28 eliminate the requirement that a home study be conducted for purposes of an adoption if all of the following apply: 1) the proposed adoptive parent's home is a foster home certified to provide level 2 care; 2) the proposed adoptive parent is licensed to operate his or her home as foster home certified to provide level 2 care and the license is effective at the time the adoption petition is filed; 3) the proposed adoptive parent has never had a license to operate a foster home revoked or suspended; 4) the child to be adopted has resided in the home for 12 consecutive months or more immediately prior to the filing of the adoption petition; and 5) the foster home investigation was conducted in accordance with standards established by DCF for investigating a foster home that will be converting into an adoptive home.

SECTION 29. 48.92 (2) of the statutes is amended to read:

48.92 **(2)** After the order of adoption is entered the relationship of parent and child between the adopted person and the adopted person's birth parents and the relationship between the adopted person and all persons whose relationship to the adopted person is derived through those birth parents shall be completely altered and all the rights, duties, and other legal consequences of those relationships shall cease to exist, unless the birth parent is the spouse of the adoptive parent, in which case those relationships shall be completely altered and those rights, duties, and other legal consequences shall cease to exist only with respect to the birth parent who is not the spouse of the adoptive parent and all persons whose relationship to the adopted person is derived through that birth parent. Notwithstanding the extinction of all parental rights under this subsection, a court may approve a posttermination contact agreement under s. 48.429 or order reasonable visitation under s. 48.925.

NOTE: This SECTION specifies that although an adoption order extinguishes all rights, duties, and legal consequences of a child's relationship with a birth parent and all birth relatives, the juvenile court may approve a posttermination contact agreement.

SECTION 30. 48.93 (1d) of the statutes is amended to read:

48.93 **(1d)** All records and papers pertaining to an adoption proceeding shall be kept in a separate locked file and may not be disclosed except under sub. (1g), (1m), (1r), ~~or~~ (1v), or (2) (a), s. 48.432, 48.433, 48.434, 48.48 (17) (a) 9., or 48.57 (1) (j), or by order of the court for good cause shown.

SECTION 31. 48.93 (1m) of the statutes is created to read:

48.93 **(1m)** If an adoptive parent or proposed adoptive parent of a child consents, the court or the agency that placed the child for adoption in the home of the adoptive parent or proposed adoptive parent may disclose the name and last–known address of the adoptive parent or proposed adoptive parent to an agency that is determining the availability of an adoptive placement for a sibling of the child under s. 48.38 (4) (br), 48.834 (2), or 938.38 (4) (br).

NOTE: SECTIONS 30 and 31 permit records and papers pertaining to an adoption proceeding to be disclosed for purposes of determining the availability of a placement for a child with an adoptive parent or proposed adoptive parent of a sibling of the child.

SECTION 32. 48.93 (2) of the statutes is renumbered 48.93 (2) (b) and amended to read:

48.93 **(2)** (b) All correspondence and papers~~,~~ relating to the investigation~~,~~ ~~which~~ that are not a part of the court record, except those in the custody of agencies authorized to place children for adoption, shall be transferred to the department and placed in its closed files.

SECTION 33. 48.93 (2) (a) of the statutes is created to read:

48.93 **(2)** (a) 1. A proposed adoptive parent whose home is the subject of an investigation under s. 48.837 (1r) (c) or (4) (c) or 48.88 (2) (a) may request the agency conducting the investigation to disclose its report of the investigation to any other agency authorized to place children for adoption, to the state adoption information exchange under s. 48.55, or to the state adoption center under s. 48.55. Within 10

days after receipt of the request, the agency shall disclose the report to the person named in the request, unless within those 10 days the agency petitions the court for an order permitting the agency not to disclose the report, to restrict the information to be disclosed, or to defer disclosure of the report to a later date or for such other appropriate relief as the agency may request.

2. The petition shall allege facts showing good cause for granting the relief requested. ~~Upon receipt of the petition, the court~~ shall provide notice of the petition to the proposed adoptive parents and the person to whom disclosure of the report was requested. If any party receiving notice objects to the petition, the court shall hold a hearing to take evidence relating to the relief requested in the petition. If the court determines that there is good cause to grant the relief requested, the court shall grant such relief as the court may consider appropriate. If the court determines that there is not good cause to grant the relief requested, the court shall order the petitioner to disclose the report within 10 days after the date of the hearing.

NOTE: SECTIONS 32 and 33 authorize a proposed adoptive parent who is the subject of a home study to request the agency conducting the study to disclose its report to another agency authorized to place children for adoption, the state adoption information exchange, or the state adoption center, unless, upon petition, the juvenile court finds that disclosure should be restricted, deferred, or disallowed.

SECTION 34. 938.02 (1) of the statutes is renumbered 938.02 (1g).

SECTION 35. 938.02 (1c) of the statutes is created to read:

938.02 **(1c)** "Adoption under tribal law or custom" has the meaning given in s. 48.02 (1c).

NOTE: This SECTION provides a definition in the Juvenile Justice Code for an "adoption under tribal law or custom."

SECTION 36. 938.028 (2) (f) of the statutes is created to read:

938.028 **(2)** (f) "Suspension of parental rights" has the meaning given in s. 48.028 (2) (i).

NOTE: This SECTION provides a definition in the Juvenile Justice Code for a "suspension of parental rights" ordered by a tribal court.

SECTION 37. 938.028 (3) (f) of the statutes is amended to read:

938.028 **(3)** (f) *Full faith and credit.* The state shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe that are applicable to an Indian juvenile custody proceeding, including a proceeding for a suspension of parental rights or an adoption under tribal law or custom, to the same extent that the state gives full faith and credit to the public acts, records, and judicial proceedings of any other governmental entity.

NOTE: This SECTION specifies that a state court, under the Juvenile Justice Code, must accord full faith and credit to a tribal court's order for a suspension of parental rights or an adoption under tribal law or custom.

SECTION 38. 938.255 (1) (c) of the statutes is amended to read:

938.255 **(1)** (c) Whether the juvenile is in custody and, if so, the place where the juvenile is being held and the time he or she was taken into custody unless there is reasonable cause to believe that such disclosures ~~would result in imminent danger to the juvenile or physical custodian~~ are not in the best interest of the juvenile.

NOTE: This SECTION makes the same changes in the Juvenile Justice Code as SECTION 7 makes to the parallel provision of the Children's Code.

SECTION 39. 938.33 (5) of the statutes is renumbered 938.33 (5) (a) and amended to read:

938.33 **(5)** (a) If the report recommends placement in a foster home, and the name of the foster parent is not available at the time the report is filed, the agency shall provide the court and the juvenile's parent or guardian with the name and address of the foster parent within 21 days after the dispositional order is entered, ~~except that the court may order the information withheld from the juvenile's parent or guardian if the court finds that disclosure would result in imminent danger to the~~

~~juvenile or to the foster parent. After notifying the juvenile's parent or guardian, the court shall hold a hearing prior to ordering the information withheld~~.

SECTION 40. 938.33 (5) (b) of the statutes is created to read:

938.33 **(5)** (b) If the report recommends that a juvenile be placed outside of his or her home, the court may order the name and address of the out–of–home placement to be withheld from the juvenile's parent or guardian if the court finds that disclosure of the name and address of the placement is not in the best interest of the juvenile. After notifying the juvenile's parent or guardian, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 39 and 40 make the same changes to the Juvenile Justice Code as SECTIONS 8 and 9 make to the parallel provisions of the Children's Code.

SECTION 41. 938.355 (2) (b) 2. of the statutes is amended to read:

938.355 **(2)** (b) 2. ~~If~~ Except as provided in subd. 2g., if the juvenile is placed outside the home, the name of the place or facility, including transitional placements, where the juvenile shall be cared for or treated, except that if the placement is a foster home and the name and address of the foster parent is not available at the time of the order, the name and address of the foster parent shall be furnished to the court and the parent within 21 days after the order. ~~If, after a hearing on the issue with due notice to the parent or guardian, the court finds that disclosure of the identity of the foster parent would result in imminent danger to the juvenile or the foster parent, the court may order the name and address of the prospective foster parents withheld from the parent or guardian.~~

SECTION 42. 938.355 (2) (b) 2g. of the statutes is created to read:

938.355 **(2)** (b) 2g. If the juvenile is placed outside the home, the court may order the name and address of the placement to be withheld from the juvenile's

parent or guardian if the court finds that disclosure of the name and address of the placement is not in the best interest of the juvenile. After notifying the juvenile's parent or guardian, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 41 and 42 make the same changes to the Juvenile Justice Code as SECTIONS 10 and 11 make to the parallel provisions of the Children's Code.

SECTION 43. 938.357 (1) (am) 1. of the statutes is amended to read:

938.357 **(1)** (am) 1. ~~If~~ Except as provided in subd. 1r., if the proposed change in placement involves any change in placement other than a change in placement under par. (c), the person or agency primarily responsible for implementing the dispositional order or the district attorney shall cause written notice of the proposed change in placement to be sent to the juvenile, the parent, guardian, and legal custodian of the juvenile, and any foster parent or other physical custodian described in s. 48.62 (2) of the juvenile. If the juvenile is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian under s. 938.13 (4), (6), (6m), or (7), written notice shall also be sent to the Indian juvenile's Indian custodian and tribe. The notice shall contain the name and address of the new placement, the reasons for the change in placement, a statement describing why the new placement is preferable to the present placement, and a statement of how the new placement satisfies objectives of the treatment plan ordered by the court.

SECTION 44. 938.357 (1) (am) 1r. of the statutes is created to read:

938.357 **(1)** (am) 1r. If the person or agency primarily responsible for implementing the dispositional order or the district attorney reasonably believes that withholding the name and address of the new placement is in the best interest of the juvenile, ~~then~~ the person or agency primarily responsible for implementing the

dispositional order or the district attorney may cause written notice of the proposed change in placement under subd. 1. to be sent to the juvenile's parent or guardian without disclosure of the name and address of the new placement. The court shall hold a hearing to determine whether withholding the name and address of the placement is in the best interest of the child with due notice to the juvenile's parent or guardian, and if the juvenile is an Indian juvenile, the Indian juvenile's Indian custodian and tribe. If, after a hearing on the issue, the court finds that withholding the name and address of the new placement is not in the best interest of the juvenile, ~~then~~ the court shall order the name and address to be disclosed to the parent or guardian, and if the juvenile is an Indian juvenile, his or her parent or Indian custodian.

NOTE: SECTIONS 43 and 44 make the same changes to the Juvenile Justice Code as SECTIONS 12 and 13 make to the parallel provisions of the Children's Code.

SECTION 45. 938.357 (1) (c) 2. of the statutes is amended to read:

938.357 **(1)** (c) 2. The court shall hold a hearing prior to ordering a change in placement requested under subd. 1. ~~At~~ Except as provided in subd. 2g., at least 3 days prior to the hearing, the court shall provide notice of the hearing, together with a copy of the request for the change in placement, to the juvenile, the parent, guardian, and legal custodian of the juvenile, all parties that are bound by the dispositional order, and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. Subject to subd. 2r., if all parties consent, the court may proceed immediately with the hearing.

SECTION 46. 938.357 (1) (c) 2g. of the statutes is created to read:

938.357 **(1)** (c) 2g. The court may order the name and address of the requested change in placement to be withheld from the juvenile's parent or guardian, and if the juvenile is an Indian juvenile, his or her parent or Indian custodian, if the court finds that disclosure of the name and address of the placement is not in the best interest of the juvenile. After notifying the juvenile's parent or guardian, and if the juvenile is an Indian juvenile, the Indian juvenile's parent or Indian custodian, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 45 and 46 make the same changes to the Juvenile Justice Code as SECTIONS 14 and 15 make to the parallel provisions of the Children's Code.

SECTION 47. 938.357 (2m) (b) of the statutes is amended to read:

938.357 **(2m)** (b) *Hearing; when required.* The court shall hold a hearing prior to ordering any change in placement requested or proposed under par. (a) if the request states that new information is available that affects the advisability of the current placement. A hearing is not required if the requested or proposed change in placement does not involve a change in placement of a juvenile placed in the juvenile's home to a placement outside the juvenile's home, written waivers of objection to the proposed change in placement are signed by all parties entitled to receive notice under this paragraph, and the court approves. If a hearing is scheduled, not less than 3 days before the hearing the court shall notify the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster parent or other physical custodian described in s. 48.62 (2) of the juvenile, all parties who are bound by the dispositional order, and, if the juvenile is an Indian juvenile who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian juvenile's Indian custodian and tribe. ~~A~~ Except as provided in par. (bg), a copy of the request or

proposal for the change in placement shall be attached to the notice. Subject to par. (br), if all of the parties consent, the court may proceed immediately with the hearing.

SECTION 48. 938.357 (2m) (bg) of the statutes is created to read:

938.357 **(2m)** (bg) The court may order that the name and address of the new placement be withheld from the parent or guardian if the court finds that disclosure of the name and address of the new placement is not in the best interest of the juvenile. After notifying the juvenile's parent or guardian, and if the juvenile is an Indian juvenile, the Indian juvenile's Indian custodian and tribe, the court shall hold a hearing prior to ordering that the information be withheld.

NOTE: SECTIONS 47 and 48 make the same changes to the Juvenile Justice Code as SECTIONS 16 and 17 make to the parallel provisions of the Children's Code.

SECTION 49. 938.38 (4) (fg) 2. of the statutes is amended to read:

938.38 **(4)** (fg) 2. Placement of the juvenile for adoption, including placement for adoption under tribal law or custom.

NOTE: This SECTION provides that, if a juvenile's permanency plan in an Indian juvenile custody proceeding in state court includes the goal of placement for adoption, that goal may include placement for adoption under tribal law or custom.

SECTION 50. Initial applicability.

(1) POSTTERMINATION CONTACT AGREEMENTS. The treatment of sections 48.425 (1) (h), 48.426 (3) (c), 48.428 (6) (a) and (b), 48.429, 48.43 (2) (d), and 48.92 (2) of the statutes first applies to a termination of parental rights petition filed on the effective date of this subsection.

NOTE: This subsection specifies that the provisions of the bill relating to a posttermination contact agreement first apply to a TPR petition filed on the effective date of the bill.

(2) DISCLOSURE OF NAME AND ADDRESS OF OUT–OF–HOME PLACEMENTS.

(a) *Original petition.* The treatment of sections 48.255 (1) (c), 48.355 (2) (b) 2. and 2g., 938.255 (1) (c), and 938.355 (2) (b) 2. and 2g. of the statutes, the renumbering

and amendment of sections 48.33 (5) and 938.33 (5) of the statutes, and the creation of sections 48.33 (5) (b) and 938.33 (5) (b) of the statutes first apply to a petition filed under section 48.13, 938.12, 938.125, or 938.13 of the statutes on the effective date of this paragraph.

(b) *Change–in–placement petition.* The treatment of sections 48.357 (1) (am) 1. and 1r. and (c) 2. and 2g. and (2m) (b) and (bg) and 938.357 (1) (am) 1. and 1r. and (c) 2. and 2g. and (2m) (b) and (bg) of the statutes first applies to a request for a change in placement filed on the effective date of this paragraph.

NOTE: This subsection specifies that the disclosure provisions related to the name and address of an out–of–home placement that are included in the CHIPS petition, petition filed under the Juvenile Justice Code, ~~juvenile~~ court report, or dispositional order are prospective as they apply to a petition filed on or after the effective date of the bill. Similarly, the disclosure provisions related to a requested change in placement apply to a request for a change in placement that is filed on or after the effective date of the bill.

(3) HOME ~~INVESTIGATIONS~~ OF AN ADOPTIVE PARENT. The treatment of sections 48.837 (1r) (c) and 48.88 (2) (a) (intro.) and (d) of the statutes first applies to an adoption petition filed on the effective date of this subsection.

NOTE: This subsection specifies that the provisions of the bill specifying when a home ~~investigation of an~~ adoptive parent is not required are prospective as they apply to an adoption petition filed on or after the effective date of the bill.

(4) DISCLOSURE OF LAST KNOWN ADDRESS OF AN ADOPTIVE PARENT OR PROPOSED ADOPTIVE PARENT. The treatment of section 48.93 (1m) of the statutes first applies to an adoption petition filed on the effective date of this subsection.

NOTE: This subsection specifies that the provision of the bill permitting the disclosure of records and papers pertaining to an adoption for purposes of determining the availability of a placement for a sibling of an adopted child with an adoptive parent or proposed adoptive parent applies to an adoption petition filed on or after the effective date of the bill.

SECTION 51. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.

NOTE: This SECTION delays the effective date of the bill until the first day of the 6th month following publication.

(END)