

2013 DRAFTING REQUEST

Bill

Received: **2/13/2013** Received By: **gmalaise**
Wanted: **As time permits** Same as LRB:
For: **Legislative Council - JLC 6-2298** By/Representing: **Melissa Schmidt**
May Contact: Drafter: **gmalaise**
Subject: **Children - TPR and adoption** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **melissa.schmidt@legis.wisconsin.gov**
Carbon copy (CC) to: **margit.kelley@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Various changes relating to children in need of protection or services and termination of parental rights

Instructions:

See attached--draft up WLC: 0069/1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 2/21/2013			_____			
/P1		scalvin 3/7/2013		_____			
/P2	gmalaise 3/13/2013		rschluet 3/7/2013	_____	srose 3/7/2013		State S&L

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/P3	gmalaise 3/14/2013	scalvin 3/14/2013	jfrantze 3/14/2013	_____	sbasford 3/14/2013		State S&L
/1		scalvin 3/15/2013	rschluet 3/15/2013	_____	lparisi 3/15/2013	lparisi 3/20/2013	State S&L

FE Sent For:

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intro

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Handwritten signature and date: 3/15/13

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03/15/2013

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1P3 sac
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Jb
3/14

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/?	gmalaise		2/13 Ph. conversion				

FE Sent For:

1/22 sac
03/07/2013

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1 **AN ACT** *to renumber and amend* 48.23 (2), 48.355 (2d) (c) and 938.355 (2d) (c); *to*
2 *amend* 48.21 (5) (b) 3., 48.27 (3) (b) 2., 48.32 (1) (b) 2., 48.355 (2) (b) 6r., 48.355
3 (2d) (b) (intro.), 48.357 (2v) (a) 3., 48.365 (2m) (a) 2., 48.415 (2) (a) 2. b., 48.415
4 (2) (a) 3., 48.415 (3) (a), 48.415 (5) (a), 48.415 (8), 48.415 (9), 48.415 (9m) (a),
5 48.415 (10) (a), 48.42 (2) (b) 3., 48.42 (2m) (a), 48.423 (1), 48.427 (7) (a) and (b),
6 48.46 (1), (1m) and (2), 48.977 (2) (a), 48.977 (4) (b) 3., 938.21 (5) (b) 3., 938.32 (1)
7 (c) 2., 938.355 (2) (b) 6r. and (2d) (b) (intro.), 938.357 (2v) (a) 3. and 938.365 (2m)
8 (a) 2.; and *to create* 48.13 (14), 48.23 (2) (c) and (d), 48.355 (2d) (c) 1., 48.415 (9)
9 (c), 809.10 (1) (b) 7., 809.107 (2) (bm) 6. and 938.355 (2d) (c) 1. and 2. of the
10 statutes; **relating to:** children in need of protection or services jurisdiction over, and
11 grounds for involuntary termination of, parental rights to a child under 3 years of
12 age, whose parent had an involuntary termination of parental rights within the last 3
13 years, and was found to be in need of continued custody; involuntary termination of
14 parental rights when child is in continuing need of protection or services; reasonable
15 efforts by an agency to return a child safely home when a child or juvenile has been
16 adjudged in need of protection or services; requirements for further participation in
17 an action to terminate parental rights by a man alleged to be the child's father;
18 revising certain grounds for an involuntary termination of parental rights; revising
19 evidentiary requirements for certain grounds for an involuntary termination of
20 parental rights and for certain notice exceptions; waiver of counsel for a parent in a
21 proceeding for involuntary termination of parental rights or a contested adoption;

1 and requiring a parent's signature on a petition for post-dispositional relief or a
2 notice of appeal.

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

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

Child in Need of Protection or Services (CHIPS) Petition and Subsequent Involuntary Termination of Parental Rights (TPR) Based Upon an Involuntary TPR Within the Prior 3 Years

Under current law, a court assigned to exercise jurisdiction under the Children's Code (juvenile court) has jurisdiction over a child who is alleged to be in need of protection or services. A juvenile court may issue an order to remove the child from the home and may order that services be provided if the child meets one of several specified conditions, including abuse or neglect of the child.

Also under current law, a petition for the involuntary TPR may be filed against a person, if within 3 years prior to the date of birth of the child a juvenile court had also ordered the termination of parental rights with respect to another child of the person.

The draft creates a new ground to file a CHIPS petition. The draft allows the juvenile court to have jurisdiction over a child who is under 3 years of age, whose parent had his or her parental rights involuntarily terminated with respect to another child within 3 years prior to the child's date of birth, and a judge or circuit court commissioner at the temporary physical custody hearing has found that the child should be continued in custody if the parent has the right to counsel under s. 48.23 and had this right during the proceeding under s. 48.21, unless this right has been knowingly and voluntarily waived. The draft allows a TPR petition to be filed if a child was found to be in need of protection or services based upon the new CHIPS ground created under this draft. The court must provide oral and written notification of this fact when entering an order terminating the parental rights of one or both parents as to a previous child. The draft also allows a juvenile court to appoint a guardian for a child adjudged to be in need of protection or services based upon the new CHIPS ground.

Continuing Need of Protection or Services

Under current law, in order to terminate a person's parental rights, a court or a jury must find that one or more statutory grounds exist. One of the grounds under which an involuntary TPR may be filed is if a child is in continuing need of protection or services. This ground may be established by proving all of the following elements:

- The child has been adjudicated in need of protection or services (CHIPS) and continues to be placed outside the home under the CHIPS order.
- The responsible social services agency has made reasonable efforts to provide the services ordered by the court.
- The child has been placed outside the home for a cumulative total period of 6 months or longer pursuant to the CHIPS order.
- The parent has failed to meet the conditions established for the safe return of the child to the home.
- There is a substantial likelihood that the parent will not meet the conditions established for the safe return of the child to the home within the next 9 months after the TPR fact-finding hearing.

This draft deletes the requirement of showing that the parent is substantially likely to continue to fail for the next 9 months to meet the conditions for the safe return of the child to the home. However, the draft provides that if the child has been placed outside the home for less than 15 of the last 22 months, the petitioner must show that there is a substantial likelihood that the parent will not meet the conditions at the time the child will reach the 15th of the last 22 months of placement outside the home.

Continuing Parental Disability

Under current law, a parent's continuing disability is a ground for involuntary TPR. This ground requires all of the following findings: (1) the parent is currently receiving inpatient treatment in a hospital or treatment facility for mental illness, developmental disability, or other like incapacity; (2) the parent has received inpatient treatment in one or more hospitals or treatment facilities for a cumulative total period of at least 2 of the last 5 years immediately prior to the filing of the TPR petition; (3) the parent's condition is likely to continue indefinitely; and (4) the child is not being provided with adequate care by a relative, parent, or guardian.

The draft revises the TPR ground of a continuing parental disability to require a parent to have had inpatient treatment history for at least 15 of

the last 22 months prior to the filing of the TPR petition, rather than an inpatient history for at least 2 of the last 5 years.

Parenthood as a Result of Sexual Assault

Under current law, a parent's commission of sexual assault that results in conception of a child is a ground for TPR. Conception as a result of sexual assault may be proven by a final judgment of conviction or other evidence produced at a fact-finding hearing showing that the person who may be the father committed sexual assault against the mother during a possible time of conception. The mother of the child must be afforded an opportunity to be heard on her desire for the termination of the father's parental rights.

The draft revises the TPR ground of conception as a result of sexual assault to equally apply to termination of a mother's or father's parental rights. The draft also specifies that the ground is inapplicable to a perpetrator of a non-violent sexual assault of a minor, if the perpetrator was also a minor at the time of the assault with an age difference of within 4 years from the victim.

In addition, under current law, a court is not required to provide notice of a CHIPS or TPR action to a person who may be the father of a child conceived as a result of a sexual assault, if a physician attests to a belief that there was a sexual assault of the child's mother that may have resulted in the child's conception.

In the exceptions from providing notice of a CHIPS or TPR action to a person who may be the father, the draft removes the requirement for a physician's statement as to a belief that there was a sexual assault, and instead requires proof by a final judgment of conviction or other evidence. Under the draft, the exception to providing notice of a CHIPS or TPR action does not apply to a father who was under age 18 at the time of a nonviolent sexual assault of a minor, with an age difference that was within 4 years of the victim's age.

Pattern of Child Abuse; Homicide of Parent; and Felony Against a Child

Under current law, a parent's commission of one of certain egregious crimes is a ground for TPR. These include: (1) a parent who has subjected a child to a pattern of physically or sexually abusive behavior that is a substantial threat to the health of the child; (2) a parent who has committed homicide or solicitation to commit homicide of the other parent; or (3) a parent who has committed a serious felony against the person's own child or committed child trafficking against any child.

Each of these circumstances requires evidence of a final judgment of conviction for the crime. In order for a judgment of conviction to be considered as final under the law, the time for appeal must have expired, or, if appealed, all appeals directly challenging the parent's guilt must be exhausted.

The draft revises the TPR grounds of child abuse, homicide of a parent, and felony against a child to allow evidence of the criminal conduct itself to be proven, as an alternative to allowing proof by a final judgment of conviction.

Reasonable Efforts to Return a Child Safely Home

The Adoption and Safe Families Act of 1997 (ASFA) requires that reasonable efforts be made to preserve and reunify a family prior to a child's removal from the home, and, if removed from the home, to make it possible for the child's safe return to the home or to achieve any other goal of the child's permanency plan.

ASFA specifies that reasonable efforts "shall not be required" under certain egregious circumstances. These have been codified in Wisconsin law to specify that a court is not required to include a finding as to whether an agency has made reasonable efforts if a parent:

- Has subjected the child to aggravated circumstances, including torture, chronic abuse, sexual abuse, or felony abandonment of the child.
- Committed or attempted murder of the child's other parent.
- Committed an assault crime that resulted in great or substantial bodily harm to the child or another child of the parent.
- Had parental rights to another child involuntarily terminated.
- Has relinquished custody of the child within 72 hours of the child's birth.

Wisconsin law does not expressly prohibit a juvenile court from requiring a social service agency to make reasonable efforts in these circumstances, nor does the law specify a standard to evaluate when reasonable efforts may be required under these circumstances.

In addition, under Wisconsin law, when considering a TPR petition under the ground that a child continues to be in need of protection or services, a number of elements must be found, including that a social services agency has made reasonable efforts to provide the services ordered by the court. No exception is made for the egregious circumstances under which reasonable efforts are not required.

This draft revises the requirements for a responsible agency to make reasonable efforts to return a child safely to the home as follows:

- Specifies that a court must determine that an agency is not required to make reasonable efforts to prevent a child from being removed from the home or to reunify the family if there are egregious circumstances under which reasonable efforts are not required, unless the court determines that such efforts would be in the best interests of the child.
- Specifies in the TPR ground based upon a child's continuing need of protection or services that the requirement for an agency to have made reasonable efforts to reunify the family is inapplicable for any period when reasonable efforts were not required due to the statutory egregious circumstances.

Because the Juvenile Justice Code contains parallel provisions to the Children's Code for holding a child or juvenile in custody, the draft revises the parallel provisions relating to reasonable efforts in both the Children's Code and the Juvenile Justice Code to make both codes consistent.

Waiver of Counsel; Parent's Signature

Under current law, in a proceeding involving TPR, or a contested adoption, a parent who appears before the juvenile court must be represented by counsel. A parent 18 years of age or over may waive counsel if the juvenile court is satisfied that the waiver is knowingly and voluntarily made. However, a parent under age 18 may not waive counsel.

Current law also provides that if an attorney represented a parent during a TPR proceeding, and has not been discharged, the representation continues during a TPR appeal.

The Wisconsin Supreme Court has strictly construed the statute requiring representation during an involuntary TPR proceeding in holding that an attorney may not be discharged from representing a parent who fails to cooperate with the court and the attorney. [*State v. Shirley E.*, 2006 WI 129; *State v. Darrell K.*, 2010AP1910 (Wis. Ct. App., Oct. 19, 2010, unpublished).]

The draft specifies that a parent 18 years of age or over who was ordered to appear in person at hearings for an involuntary TPR or contested adoption proceeding, but has failed to appear, is considered to have waived the right to counsel. A failure to appear by an adult parent must be egregious and without clear and justifiable excuse, which may be presumed from a parent's failure to appear at consecutive hearings.

The draft also requires a parent's signature, in addition to counsel's signature, on a notice of intent to appeal or notice of appeal from a TPR judgment, petition for rehearing from a CHIPS adjudication or TPR judgment, or motion for postdisposition relief from a CHIPS adjudication or TPR judgment.

TPR Participation by Alleged Father

Under current law, an alleged father must be served with a TPR summons and petition. If paternity is then established during the TPR proceedings, the father may further participate in the proceedings.

In order for an alleged father to participate in the TPR proceedings after paternity has been established, at least one of the following must have occurred:

- The alleged father has filed a declaration of paternal interest upon the child's birth or upon receipt of the TPR petition, and the declaration has not been revoked.
- The mother (or other source) alleges the man to be the father.
- The man has lived in a familial relationship with the child and may be the father of the child.

This draft removes the right for a man who was alleged to be the father, and determined in the TPR proceedings to be the father, but who has not otherwise declared or established a relationship with the child, to further participate in the proceedings. Specifically, under the draft, a man determined to be the father may further participate in a TPR proceeding only if the man had filed a declaration of paternal interest upon the child's birth or upon receipt of the TPR petition that has not been revoked, had established and maintained a familial relationship with the child, or if the man establishes that he has been deprived of the opportunity to assume parental responsibility for the child.

The draft retains the requirement to serve an alleged father with a summons and petition for the TPR action, regardless of whether the alleged father has declared or established and maintained a familial relationship with the child.

- 1 **SECTION 1.** 48.13 (14) of the statutes is created to read:
- 2 48.13 (14) Who is less than 3 years of age whose parent, within 3 years prior to the date
- 3 of the birth of the child had his or her parental rights to another child involuntarily terminated
- 4 by a court, and a judge or circuit court commissioner has found that the child should be

1 continued in custody under s. 48.21 (4) if the parent has the right to counsel under s. 48.23 and
2 had this right during the proceeding under s. 48.21, unless this right has been knowingly and
3 voluntarily waived.

NOTE: This SECTION creates a new ground in which the juvenile court has jurisdiction over a child in need of protection or services. The ground gives jurisdiction over a child who is under 3 years of age whose parent has had his or her parental rights to another child involuntarily terminated within the last 3 years; the parent has the right to counsel under s. 48.23, unless this right has been knowingly and voluntarily waived; and at the temporary physical custody hearing, a judge or circuit court commissioner has found the child to be in need of continued custody. In order for a court to have jurisdiction over a child under this new CHIPS ground, the juvenile court must first hold a temporary physical custody hearing regarding the child and find that the child should be continued in custody, and the parent must have had the right to counsel at this proceeding, unless it was knowingly and voluntarily waived.

4 **SECTION 2.** 48.21 (5) (b) 3. of the statutes is amended to read:

5 48.21 (5) (b) 3. If the judge or circuit court commissioner finds that any of the
6 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the order
7 shall include a determination that the county department, department, in a county having a
8 population of 500,000 or more, or agency primarily responsible for providing services under
9 the custody order is not required to make reasonable efforts with respect to the parent to make
10 it possible for the child to return safely to his or her home, unless the judge or circuit court
11 commissioner determines or has determined under a prior order that such efforts would be in
12 the best interests of the child.

NOTE: This SECTION specifies that at a temporary physical custody hearing, for a child alleged to be in need of protection or services, a juvenile court must determine that an agency is not required to make reasonable efforts to return a child safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the child.

1 **SECTION 3.** 48.23 (2) of the statutes is renumbered 48.23 (2) (a) and amended to read:

2 **48.23 (2) RIGHT OF PARENTS PARENT TO COUNSEL.** (a) Whenever a child is the subject of
3 a proceeding involving a contested adoption or ~~the~~ an involuntary termination of parental
4 rights, any parent under 18 years of age who appears before the court shall be represented by
5 counsel; ~~but~~ and no such parent may waive counsel. Except as provided in sub. (2g), a minor
6 parent petitioning for the voluntary termination of parental rights shall be represented by a
7 guardian ad litem. If

8 **(b)** In a proceeding ~~involves~~ involving a contested adoption or ~~the~~ an involuntary
9 termination of parental rights, any parent 18 years old or older who appears before the court
10 shall be represented by counsel; ~~but the parent may waive counsel provided the court is~~
11 ~~satisfied such waiver is knowingly and voluntarily made, except as provided in par. (c).~~

NOTE: This SECTION separates the current language governing the right
to counsel between a minor parent and a parent 18 years of age or over,
and makes the right to counsel for an adult parent subject to a waiver of
counsel by an egregious and unjustifiable failure to appear.

12 **SECTION 4.** 48.23 (2) (c) and (d) of the statutes are created to read:

13 **48.23 (2) (c)** A waiver of counsel may be made as follows:

14 1. Notwithstanding pars. (b) and (d), a parent 18 years of age or over may waive counsel
15 if the court is satisfied that the waiver is knowingly and voluntarily made.

16 2. Notwithstanding par. (b), a parent 18 years of age or over is presumed to have waived
17 his or her right to counsel and to appear by counsel if the court has ordered the parent to appear
18 in person at any or all subsequent hearings in the proceeding, the parent fails to appear in
19 person as ordered, and the court finds that the parent's conduct in failing to appear was
20 egregious and without clear and justifiable excuse. Failure by a parent 18 years of age or over

1 to appear in person at consecutive hearings as ordered by the court is presumed to be egregious
2 and without clear and justifiable excuse.

3 3. If a parent 18 years of age or over waives counsel under this paragraph, the court may
4 discharge counsel.

5 (d) In a proceeding to vacate a default judgment or for reconsideration of a default
6 judgment terminating parental rights, a parent who had waived counsel shall be represented
7 by counsel, except as provided in par. (c) 1 or 2.

NOTE: This SECTION provides that a parent 18 years of age or over who was ordered to appear in person at hearings for an involuntary TPR or contested adoption proceeding, but has failed to appear, is considered to have waived the right to counsel, if the juvenile court finds that the parent's conduct in failing to appear was egregious and without clear and justifiable excuse. The draft provides that consecutive failures by an adult parent to appear are presumed to be egregious and without clear and justifiable excuse. The draft also provides that a right to counsel is reinstated for a motion to vacate or reconsider a default TPR judgment, if counsel was waived during the default TPR.

8 SECTION 5. 48.27 (3) (b) 2. of the statutes is amended to read:

9 48.27 (3) (b) 2. A court is not required to provide notice, under subd. 1., to any person
10 who may be the father of a child ~~conceived as a result of a sexual assault if a physician attests~~
11 ~~to his or her belief that there was a~~ if sexual assault of the child's mother that may have resulted
12 in the child's conception is proved by a final judgment of conviction or other evidence. A
13 person who is not given notice under this subdivision does not have standing to appear and
14 contest a petition under s. 48.13 or 48.133, present evidence relevant to the issue of
15 disposition, or make alternative dispositional recommendations. This subdivision does not
16 apply to a person who may be the father of a child conceived as a result of a sexual assault under
17 s. 948.02 (1) (b) or (c), or (2), or 948.09, if that person was under 18 years of age at the time

1 of the sexual assault, was not more than 4 years older or 4 years younger than the victim, and
2 the assault did not involve the use or threat of force or violence.

NOTE: This SECTION removes the requirement for a physician's statement as to a belief that there was a sexual assault, in the exception from providing notice of a CHIPS action to a person who may be the father, and instead requires proof by a final judgment of conviction or other evidence. Notice of a CHIPS action must be given to a father who was under age 18 at the time of a nonviolent sexual assault, of a minor with an age difference that was within 4 years of the victim's age.

3 **SECTION 6.** 48.32 (1) (b) 2. of the statutes is amended to read:

4 48.32 (1) (b) 2. If the judge or circuit court commissioner finds that any of the
5 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the
6 consent decree shall include a determination that the county department, department, in a
7 county having a population of 500,000 or more, or agency primarily responsible for providing
8 services under the consent decree is not required to make reasonable efforts with respect to
9 the parent to make it possible for the child to return safely to his or her home, unless the judge
10 or circuit court commissioner determines or has determined under a prior order that such
11 efforts would be in the best interests of the child.

NOTE: This SECTION specifies that in a CHIPS consent decree a court must determine that an agency is not required to make reasonable efforts to return a child safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the child.

12 **SECTION 7.** 48.355 (2) (b) 6r. of the statutes is amended to read:

13 48.355 (2) (b) 6r. If the court finds that any of the circumstances specified in sub. (2d)
14 (b) 1. to 5. applies with respect to a parent, the order shall include a determination that the
15 county department, department, in a county having a population of 500,000 or more, or agency
16 primarily responsible for providing services under the court order is not required to make
17 reasonable efforts with respect to the parent to make it possible for the child to return safely

1 to his or her home, unless the court determines or has determined under a prior order that such
2 efforts would be in the best interests of the child.

NOTE: This SECTION specifies that in the written contents of a CHIPS dispositional order a court must determine that an agency is not required to make reasonable efforts to return a child safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the child.

3 **SECTION 8.** 48.355 (2d) (b) (intro.) of the statutes is amended to read:

4 48.355 (2d) (b) (intro.) Notwithstanding sub. (2) (b) 6., the court is ~~not~~ required to
5 include in a dispositional order a ~~finding as to whether~~ determination that the county
6 department, the department, in a county having a population of 500,000 or more, or the agency
7 primarily responsible for providing services under a court order ~~has made~~ is not required to
8 make reasonable efforts with respect to a parent of a child to prevent the removal of the child
9 from the home, ~~while assuring that the child's health and safety are the paramount concerns,~~
10 ~~or a finding as to whether the county department, department, or agency has made~~ or
11 reasonable efforts with respect to a parent of a child to achieve the permanency goal of
12 returning the child safely to his or her home, unless the court determines or has determined
13 under a prior order that such efforts would be in the best interests of the child, if the court finds
14 any of the following:

NOTE: This SECTION specifies that in a CHIPS dispositional order a court must determine that an agency was not required to make reasonable efforts to prevent a child's removal or return a child safely home when the statutorily defined egregious circumstances are found to exist, unless the court determined that such efforts were in the best interests of the child.

15 **SECTION 9.** 48.355 (2d) (c) of the statutes is renumbered 48.355 (2d) (c) (intro.) and
16 amended to read:

1 48.355 (2d) (c) If the court finds that any of the circumstances specified in par. (b) 1.
2 to 5. applies with respect to a parent, the court shall ~~hold~~ do all of the following:

3 2. Hold a hearing under s. 48.38 (4m) within 30 days after the date of that finding to
4 determine the permanency goal and, if applicable, any concurrent permanency goals for the
5 child.

6 **SECTION 10.** 48.355 (2d) (c) 1. of the statutes is created to read:

7 48.355 (2d) (c) 1. Include in the order a determination that the person or agency
8 primarily responsible for providing services to the child is not required to make reasonable
9 efforts with respect to the parent to make it possible for the child to return safely to his or her
10 home, unless the court determines that such efforts would be in the best interests of the child.

NOTE: SECTIONS 9 and 10 specify that a court must include in the CHIPS
dispositional order a determination that an agency is not required to
make reasonable efforts to return a child safely home when the
statutorily defined egregious circumstances are found to exist, unless the
court determines that such efforts would be in the best interests of the
child.

11 **SECTION 11.** 48.357 (2v) (a) 3. of the statutes is amended to read:

12 48.357 (2v) (a) 3. If the court finds that any of the circumstances specified in s. 48.355
13 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a determination that
14 the agency primarily responsible for providing services under the change in placement order
15 is not required to make reasonable efforts with respect to the parent to make it possible for the
16 child to return safely to his or her home, unless the court determines or has determined under
17 a prior order that such efforts would be in the best interests of the child.

NOTE: This SECTION specifies that in a change in placement from a
CHIPS dispositional order a court must determine that an agency is not
required to make reasonable efforts to return a child safely home when
the statutorily defined egregious circumstances are found to exist, unless
the court determined that such efforts were in the best interests of the
child.

1 **SECTION 12.** 48.365 (2m) (a) 2. of the statutes is amended to read:

2 48.365 **(2m)** (a) 2. If the judge finds that any of the circumstances specified in s. 48.355
3 (2d) (b) 1. to 5. applies with respect to a parent, the order shall include a determination that
4 the person or agency primarily responsible for providing services to the child is not required
5 to make reasonable efforts with respect to the parent to make it possible for the child to return
6 safely to his or her home, unless the judge determines or has determined under a prior order
7 that such efforts would be in the best interests of the child.

NOTE: This SECTION specifies that in extending a CHIPS dispositional order, a court must determine that an agency is not required to make reasonable efforts to return a child safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the child.

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

9 48.415 **(2)** (a) 2. b. That the agency responsible for the care of the child and the family
10 or of the unborn child and expectant mother has made a reasonable effort to provide the
11 services ordered by the court, excluding any period during which the responsible agency was
12 not required under s. 48.355 (2) (b) 6r., 48.357 (2v) (a) 3., 938.355 (2) (b) 6r., or 938.357 (2v)
13 (a) 3., to make reasonable efforts with respect to a parent to make it possible for the child to
14 return safely to his or her home.

NOTE: This SECTION specifies that, for the TPR ground of a child's continuing need of protection or services, reasonable efforts for the safe return of the child is inapplicable for any period when reasonable efforts for reunification were not required by the court.

15 **SECTION 14.** 48.415 (2) (a) 3. of the statutes is amended to read:

16 48.415 **(2)** (a) 3. That the child has been outside the home for a cumulative total period
17 of 6 months or longer pursuant to such orders not including time spent outside the home as
18 an unborn child; ~~and~~ that the parent has failed to meet the conditions established for the safe

1 return of the child to the home ~~and there is a substantial likelihood that the parent will not meet~~
2 ~~these conditions within the 9-month period following the fact-finding hearing under s.~~
3 ~~48.424; and, if the child has been placed outside of his or her home for less than 15 of the last~~
4 22 months, that there is a substantial likelihood that the parent will not meet these conditions
5 as of the date the child has been placed outside of his or her home pursuant to such orders for
6 15 of the most recent 22 months, not including any period during which the child was a
7 runaway from the out-of-home placement or was residing in a trial reunification home.

NOTE: This SECTION revises the continuing CHIPS ground for involuntary TPR to eliminate the requirement to show that a parent is substantially likely to not meet the conditions for the safe return of the child within the next 9 months following the fact-finding hearing. If, however, the child has been placed outside the home for less than 15 of the last 22 months, the petitioner must show that there is a substantial likelihood that the parent will not meet the conditions at the time the child will reach the 15th of the last 22 months of placement outside the home.

8 SECTION 15. 48.415 (3) (a) of the statutes is amended to read:

9 48.415 (3) (a) The parent is presently, and for a cumulative total period of at least 2-years
10 15 months within the ~~5-years~~ 22 months immediately prior to the filing of the petition has been,
11 an inpatient at one or more hospitals as defined in s. 50.33 (2) (a), (b) or (c), ~~licensed~~ approved
12 treatment facilities ~~as defined in s. 51.01 (2)~~, or state treatment facilities as defined in s. 51.01
13 (15) on account of mental illness as defined in s. 51.01 (13) (a) or (b), developmental disability
14 as defined in s. 55.01 (2), or other like incapacities, as defined in s. 55.01 (5);

NOTE: This SECTION revises the TPR ground of a continuing parental disability to require a parent to have had inpatient treatment history for at least 15 of the last 22 months prior to the filing of the TPR petition, rather than an inpatient history for at least 2 of the last 5 years. This SECTION also corrects the terminology for an “approved treatment facility”, as used in the statutes.

15 SECTION 16. 48.415 (5) (a) of the statutes is amended to read:

1 48.415 (5) (a) That the parent has caused death or injury to a child or children ~~resulting~~
2 ~~in a~~ that may be proved by a final judgment of felony conviction or other evidence produced
3 at a fact-finding hearing under s. 48.424 indicating that the person caused the death or injury.

NOTE: This SECTION revises the TPR ground of a pattern of child abuse
to allow evidence of the criminal conduct itself to be proven, as an
alternative to allowing proof by a final judgment of conviction.

4 **SECTION 17.** 48.415 (8) of the statutes is amended to read:

5 48.415 (8) HOMICIDE OR SOLICITATION TO COMMIT HOMICIDE OF PARENT. Homicide or
6 solicitation to commit homicide of a parent, which shall be established by proving that a parent
7 of the child has been a victim of first-degree intentional homicide in violation of s. 940.01,
8 first-degree reckless homicide in violation of s. 940.02 or 2nd-degree intentional homicide
9 in violation of s. 940.05 or a crime under federal law or the law of any other state that is
10 comparable to any of those crimes, or has been the intended victim of a solicitation to commit
11 first-degree intentional homicide in violation of s. 939.30 or a crime under federal law or the
12 law of any other state that is comparable to that crime, and that the person whose parental rights
13 are sought to be terminated has ~~been convicted of~~ committed that intentional or reckless
14 homicide, solicitation or crime under the laws of this state, federal law, or the law of any other
15 state as evidenced by a final judgment of conviction or other evidence produced at a
16 fact-finding hearing under s. 48.424 indicating that the person committed or solicited
17 homicide of a parent as described in this subsection.

NOTE: This SECTION revises the TPR ground of homicide, or a
solicitation to commit homicide, of the child's other parent to allow
evidence of the criminal conduct itself to be proven, as an alternative to
allowing proof by a final judgment of conviction.

18 **SECTION 18.** 48.415 (9) of the statutes is amended to read:

1 48.415 (9) PARENTHOOD AS A RESULT OF SEXUAL ASSAULT. (a) ~~Parenthood~~ Except as
2 provided in par. (c), parenthood as a result of sexual assault, which shall be established by
3 proving that the child was conceived as a result of a sexual assault in violation of s. 940.225
4 (1), (2) or (3), 948.02 (1) or (2), 948.025, or 948.085. Conception as a result of sexual assault
5 as specified in this paragraph may be proved by a final judgment of conviction or other
6 evidence produced at a fact-finding hearing under s. 48.424 indicating that the ~~person who~~
7 ~~may be the father~~ parent of the child committed, during a possible time of conception, a sexual
8 assault as specified in this paragraph against the ~~mother~~ other parent of the child.

9 (b) If the conviction or other evidence specified in par. (a) indicates that the child was
10 conceived as a result of a sexual assault in violation of s. 948.02 (1) or (2) or 948.085, the
11 ~~mother of the child~~ parent who was the victim of the sexual assault may be heard on his or her
12 desire for the termination of the ~~father's~~ other person's parental rights.

NOTE: This SECTION revises the TPR ground of conception as a result of sexual assault to equally apply to termination of a mother's or father's parental rights, rather than referring only to the father as the perpetrator. This SECTION also specifies that a court must allow either a mother or father who was a victim of sexual assault of a minor, or victim of sexual assault of a minor by an out-of-home care provider, to be heard on his or her desires regarding the TPR of the other parent, rather than allowing only a mother, as a victim, to be heard.

13 SECTION 19. 48.415 (9) (c) of the statutes is created to read:

14 48.415 (9) (c) This subsection does not apply to a parent who committed sexual assault
15 under s. 948.02 (1) (b) or (e), or (2), or 948.09, if that person was under 18 years of age at the
16 time of the sexual assault, was not more than 4 years older or 4 years younger than the victim,
17 and the assault did not involve the use or threat of force or violence.

NOTE: This SECTION specifies that the TPR ground of conception as a result of sexual assault is inapplicable to a perpetrator of a non-violent sexual assault of a minor, if the perpetrator was also a minor at the time of the assault and was within 4 years of age difference from the victim.

1 **SECTION 20.** 48.415 (9m) (a) of the statutes is amended to read:

2 48.415 (9m) (a) Commission of a serious felony against one of the person's children,
3 which shall be established by proving that a child of the person whose parental rights are
4 sought to be terminated was the victim of a serious felony and that the person whose parental
5 rights are sought to be terminated has ~~been convicted of~~ committed that serious felony as
6 evidenced by a final judgment of conviction or other evidence produced at a fact-finding
7 hearing under s. 48.424 indicating that the person committed a serious felony against one of
8 the person's children.

NOTE: This SECTION revises the TPR ground of felony against a child to
 allow evidence of the criminal conduct itself to be proven, as an
 alternative to allowing proof by a final judgment of conviction.

9 **SECTION 21.** 48.415 (10) (a) of the statutes is amended to read:

10 48.415 (10) (a) That the child who is the subject of the petition has been adjudged to
11 be in need of protection or services under s. 48.13 (2), (3) ~~or~~, (10), or (14); or that the child
12 who is the subject of the petition was born after the filing of a petition under this subsection
13 whose subject is a sibling of the child.

NOTE: This SECTION allows a TPR petition to be filed if the parent's
 child was found to be in need of protection or services based on the new
 CHIPS ground created under SECTION 1.

14 **SECTION 22.** 48.42 (2) (b) 3. of the statutes is amended to read:

15 48.42 (2) (b) 3. A person who has ~~lived in~~ established and maintained a familial
16 relationship with the child and who may be the father of the child.

NOTE: This SECTION specifies that in order for an alleged father to be
 summoned for a TPR proceeding, one method of protecting that right is
 by having established and maintained a familial relationship with the
 child, even if the alleged father had not lived with the child.

17 **SECTION 23.** 48.42 (2m) (a) of the statutes is amended to read:

1 48.42 (2m) (a) *Parent as a result of sexual assault.* Except as provided in this paragraph,
2 notice is not required to be given to a person who may be the father of a child conceived as
3 a result of a sexual assault in violation of s. 940.225 (1), (2) or (3), 948.02 (1) or (2), 948.025,
4 or 948.085 ~~if a physician attests to his or her belief that a sexual assault as specified in this~~
5 ~~paragraph has occurred or if the person who may be the father of the child has been convicted~~
6 ~~of sexual assault as specified in this paragraph for conduct which may have led to the child's~~
7 ~~conception that may be proved by a final judgment of conviction or other evidence.~~ A person
8 who under this paragraph is not given notice does not have standing to appear and contest a
9 petition for the termination of his parental rights, present evidence relevant to the issue of
10 disposition, or make alternative dispositional recommendations. This paragraph does not
11 apply to a person who may be the father of a child conceived as a result of a sexual assault ~~in~~
12 ~~violation of~~ s. 948.02 (1) (b) or (e), or (2), or 948.09, if that person was under 18 years
13 of age at the time of the sexual assault, was not more than 4 years older or 4 years younger than
14 the victim, and the assault did not involve the use or threat of force or violence.

NOTE: This SECTION removes the requirement for a physician's statement as to a belief that there was a sexual assault, in the exception from providing notice of a TPR action to a person who may be the father, and instead requires proof by a final judgment of conviction or other evidence. It also specifies that notice must be given to a perpetrator of a nonviolent sexual assault of a minor, if the perpetrator was also a minor at the time of the sexual assault with an age difference that was within 4 years of the victim's age.

15 **SECTION 24.** 48.423 (1) of the statutes is amended to read:

16 48.423 (1) RIGHTS TO PATERNITY DETERMINATION. If a person appears at the hearing and
17 claims that he is the father of the child, the court shall set a date for a hearing on the issue of
18 paternity or, if all parties agree, the court may immediately commence hearing testimony
19 concerning the issue of paternity. The court shall inform the person claiming to be the father

1 of the child of any right to counsel under s. 48.23. The person claiming to be the father of the
2 child must prove paternity by clear and convincing evidence. A person who establishes his
3 paternity of the child under this section may further participate in the termination of parental
4 rights proceeding only if the person meets the conditions specified in sub. (2) or, meets a
5 condition specified in s. 48.42 (2) (b) 1. or 3. or (bm), or establishes that he has been deprived
6 of the opportunity to assume parental responsibility for the child.

NOTE: This SECTION removes the right of a man alleged to be the father, who has not otherwise declared or established and maintained a familial relationship with the child, to further participate in a TPR proceeding after his paternity has been determined, unless he establishes that he has been deprived of the opportunity to assume parental responsibility for the child.

7 SECTION 25. 48.427 (7) (a) and (b) of the statutes are amended to read:

8 48.427 (7) (a) If an order is entered under sub. (3), the court may orally inform the parent
9 or parents who appear in court of the ground for termination of parental rights specified in s.
10 48.415 (10), except that the court shall orally inform the parent or parents of the ground for
11 termination of parental rights specified in s. 48.415 (10) (a) of a child who has been adjudged
12 to be in need of protection or services under s. 48.13 (14).

13 (b) In addition to the notice permitted under par. (a), any written order under sub. (3)
14 may notify the parent or parents of the information specified in par. (a), except that the court
15 shall provide written notification to the parent or parents of the ground for termination of
16 parental rights specified in s. 48.415 (10) (a) of a child who has been adjudged to be in need
17 of protection or services under s. 48.13 (14).

NOTE: This SECTION requires that the court, when entering an order terminating the parental rights as to one or both parents, must provide oral and written notification to the parent or parents of the fact that this TPR order may be used to terminate the parental rights of another child of the parent or parents, born within the 3 years following the date of the

TPR, if the child is found to be in need of protection or services under the new CHIPS ground created under SECTION 1 of this draft.

1 **SECTION 26.** 48.46 (1), (1m) and (2) of the statutes are amended to read:

2 48.46 (1) Except as provided in subs. (1m), (2) and (3), the child whose status is
3 adjudicated by the court, the parent, guardian or legal custodian of that child, the unborn child
4 whose status is adjudicated by the court or the expectant mother of that unborn child may at
5 any time within one year after the entering of the court's order petition the court for a rehearing
6 on the ground that new evidence has been discovered affecting the advisability of the court's
7 original adjudication. Upon a showing that such evidence does exist, the court shall order a
8 new hearing. Notwithstanding s. 802.05 (1), a petition by a parent under this subsection shall
9 be signed by the parent, and by the parent's attorney of record, if any.

10 **(1m)** Except as provided in sub. (2), the parent, guardian or legal custodian of the child
11 or the child whose status is adjudicated by the court in an order entered under s. 48.43 or an
12 order adjudicating paternity under subch. VIII may, within the time permitted under this
13 subsection, petition the court for a rehearing on the ground that new evidence has been
14 discovered affecting the advisability of the court's adjudication. Upon a showing that such
15 evidence does exist, the court shall order a new hearing. A petition under this subsection shall
16 be filed within one year after the date on which the order under s. 48.43 or order adjudicating
17 paternity under subch. VIII is entered, unless within that one-year period a court in this state
18 or in another jurisdiction enters an order granting adoption of the child, in which case a petition
19 under this subsection shall be filed before the date on which the order granting adoption is
20 entered or within 30 days after the date on which the order under s. 48.43 or order adjudicating
21 paternity under subch. VIII is entered, whichever is later. Notwithstanding s. 802.05 (1), a

1 petition by a parent under this subsection shall be signed by the parent, and by the parent's
2 attorney of record, if any.

3 (2) A parent who has consented to the termination of his or her parental rights under
4 s. 48.41 or who did not contest the petition initiating the proceeding in which his or her parental
5 rights were terminated may move the court for relief from the judgment on any of the grounds
6 specified in s. 806.07 (1) (a), (b), (c), (d) or (f). Notwithstanding s. 802.05 (1), a motion by
7 a parent under this subsection shall be signed by the parent, and by the parent's attorney of
8 record, if any. Any such motion shall be filed within 30 days after the entry of the judgment
9 or order terminating parental rights, unless the parent files a timely notice of intent to pursue
10 relief from the judgment under s. 808.04 (7m), in which case the motion shall be filed within
11 the time permitted by s. 809.107 (5). A motion under this subsection does not affect the finality
12 or suspend the operation of the judgment or order terminating parental rights. A parent who
13 has consented to the termination of his or her parental rights to an Indian child under s. 48.41
14 (2) (e) may also move for relief from the judgment under s. 48.028 (5) (c) or (6). Motions
15 under this subsection or s. 48.028 (5) (c) or (6) and appeals to the court of appeals shall be the
16 exclusive remedies for such a parent to obtain a new hearing in a termination of parental rights
17 proceeding.

NOTE: This SECTION requires a parent to sign a petition for rehearing or motion for postdisposition relief from a CHIPS adjudication, paternity adjudication, or TPR order, whether or not the parent is represented, and retains the requirement under current law that counsel sign the petition or motion if the parent is represented.

18 SECTION 27. 48.977 (2) (a) of the statutes is amended to read:

19 48.977 (2) (a) That the child has been adjudged to be in need of protection or services
20 under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), ~~or (11m)~~, or (14)
21 or 938.13 (4) and been placed, or continued in a placement, outside of his or her home pursuant

1 to one or more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.345, 938.357,
2 938.363, or 938.365 or that the child has been so adjudged and placement of the child in the
3 home of a guardian under this section has been recommended under s. 48.33 (1) or 938.33 (1).

4 **SECTION 28.** 48.977 (4) (b) 3. of the statutes is amended to read:

5 48.977 (4) (b) 3. The date on which the child was adjudged in need of protection or
6 services under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), ~~or (11m),~~
7 or (14) or 938.13 (4) and the dates on which the child has been placed, or continued in a
8 placement, outside of his or her home pursuant to one or more court orders under s. 48.345,
9 48.357, 48.363, 48.365, 938.345, 938.357, 938.363, or 938.365 or, if the child has been so
10 adjudged, but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1) in which
11 placement of the child in the home of the person is recommended.

NOTE: SECTIONS 27 and 28 allow the juvenile court to appoint a guardian
for a child in need of protection or services based on the new ground
created under SECTION 1.

12 **SECTION 29.** 809.10 (1) (b) 7. of the statutes is created to read:

13 809.10 (1) (b) 7. Notwithstanding s. 802.05 (1), if the appellant is a parent appealing
14 an order or judgment under s. 48.43, the parent's signature, and the parent's attorney of
15 record's signature, if the parent is represented.

NOTE: This SECTION requires a parent to sign a notice of appeal from a
TPR order, whether or not the parent is represented, and retains the
requirement under current law that counsel sign the notice if the parent is
represented.

16 **SECTION 30.** 809.107 (2) (bm) 6. of the statutes is created to read:

17 809.107 (2) (bm) 6. Notwithstanding s. 802.05 (1), if the appellant is the parent, the
18 parent's signature, and the parent's attorney of record's signature, if the parent is represented.

NOTE: This SECTION requires a parent to sign a notice of intent to appeal
a TPR order, whether or not the parent is represented, and retains the

requirement under current law that counsel sign the notice if the parent is represented.

1 **SECTION 31.** 938.21 (5) (b) 3. of the statutes is amended to read:

2 938.21 (5) (b) 3. If the court finds that any of the circumstances specified in s. 938.355
3 (2d) (b) 1. to 4. applies with respect to a parent, the order shall include a determination that
4 the county department or agency primarily responsible for providing services under the
5 custody order is not required to make reasonable efforts with respect to the parent to make it
6 possible for the juvenile to return safely to his or her home, unless the court determines or has
7 determined under a prior order that such efforts would be in the best interests of the juvenile.

NOTE: This SECTION specifies that at a temporary physical custody hearing, for a juvenile alleged to be in need of protection or services, a court must determine that an agency is not required to make reasonable efforts to return a juvenile safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the juvenile.

8 **SECTION 32.** 938.32 (1) (c) 2. of the statutes is amended to read:

9 938.32 (1) (c) 2. If the court finds that any of the circumstances specified in s. 938.355
10 (2d) (b) 1. to 4. applies with respect to a parent, the consent decree shall include a
11 determination that the county department or agency primarily responsible for providing
12 services under the consent decree is not required to make reasonable efforts with respect to
13 the parent to make it possible for the juvenile to return safely to his or her home, unless the
14 court determines or has determined under a prior order that such efforts would be in the best
15 interests of the juvenile.

NOTE: This SECTION specifies that in a consent decree for a juvenile alleged to be in need of protection or services a court must determine that an agency is not required make reasonable efforts to return a juvenile safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the juvenile.

1 **SECTION 33.** 938.355 (2) (b) 6r. and (2d) (b) (intro.) of the statutes are amended to read:

2 938.355 (2) (b) 6r. If the court finds that any of the circumstances under sub. (2d) (b)
3 1. to 4. applies with respect to a parent, the order shall include a determination that the county
4 department or agency primarily responsible for providing services under the court order is not
5 required to make reasonable efforts with respect to the parent to make it possible for the
6 juvenile to return safely to his or her home, unless the court determines or has determined
7 under a prior order that such efforts would be in the best interests of the juvenile.

NOTE: This SECTION specifies that in the written contents of a juvenile in
need of protection or services (JIPS) dispositional order a court must
determine that an agency is not required to make reasonable efforts to
return a juvenile safely home when the statutorily defined egregious
circumstances are found to exist, unless the court determines that such
efforts would be in the best interests of the juvenile.

8 **(2d) (b) (intro.)** Notwithstanding sub. (2) (b) 6., the court is not required to include in
9 a dispositional order a ~~finding as to whether~~ determination that the county department or the
10 agency primarily responsible for providing services under a court order ~~has made~~ is not
11 required to make reasonable efforts with respect to a parent of a juvenile to prevent the removal
12 of the juvenile from the home, ~~while assuring that the juvenile's health and safety are the~~
13 ~~paramount concerns, or, if applicable, a finding as to whether the county department or agency~~
14 ~~has made~~ or reasonable efforts with respect to a parent of a juvenile to achieve the permanency
15 goal of returning the juvenile safely to his or her home, unless the court determines or has
16 determined under a prior order that such efforts would be in the best interests of the juvenile,
17 if the court finds any of the following:

NOTE: This SECTION specifies that in a JIPS dispositional order a court
must determine that an agency was not required to make reasonable
efforts to prevent a juvenile's removal or return a juvenile safely home
when the statutorily defined egregious circumstances are found to exist,
unless the court determined that such efforts were in the best interests of
the juvenile.

1 **SECTION 34.** 938.355 (2d) (c) of the statutes is renumbered 938.355 (2d) (c) (intro.) and
2 amended to read:

3 938.355 **(2d)** (c) (intro.) If the court finds that any of the circumstances under par. (b)
4 1. to 4. applies with respect to a parent, the court shall ~~hold a hearing under s. 938.38 (4m)~~
5 ~~within 30 days after the date of that finding to determine the permanency goal and, if~~
6 ~~applicable, any concurrent permanency goals for the juvenile. do all of the following:~~

7 **SECTION 35.** 938.355 (2d) (c) 1. and 2. of the statutes are created to read:

8 938.355 **(2d)** (c) 1. Include in the order a determination that the person or agency
9 primarily responsible for providing services to the juvenile is not required to make reasonable
10 efforts with respect to the parent to make it possible for the juvenile to return safely to his or
11 her home, unless the court determines that such efforts would be in the best interests of the
12 juvenile.

13 2. Hold a hearing under s. 938.38 (4m) within 30 days after the date of that finding to
14 determine the permanency goal and, if applicable, any concurrent permanency goals for the
15 juvenile.

NOTE: SECTIONS 34 and 35 specify that a court must include in the JIPS
dispositional order a determination that an agency is not required to
make reasonable efforts to return a juvenile safely home when the
statutorily defined egregious circumstances are found to exist, unless the
court determines that such efforts would be in the best interests of the
juvenile.

16 **SECTION 36.** 938.357 (2v) (a) 3. of the statutes is amended to read:

17 938.357 **(2v)** (a) 3. If the court finds that any of the circumstances under s. 938.355 (2d)
18 (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the
19 agency primarily responsible for providing services under the change in placement order is
20 not required to make reasonable efforts with respect to the parent to make it possible for the

1 juvenile to return safely to his or her home, unless the court determines or has determined
2 under a prior order that such efforts were in the best interests of the juvenile.

NOTE: This SECTION specifies that in a change in placement from a JIPS dispositional order a court must determine that an agency is not required to make reasonable efforts to return a juvenile safely home when the statutorily defined egregious circumstances are found to exist, unless the court determined that such efforts were in the best interests of the juvenile.

3 SECTION 37. 938.365 (2m) (a) 2. of the statutes is amended to read:

4 938.365 (2m) (a) 2. If the court finds that any of the circumstances under s. 938.355 (2d)
5 (b) 1. to 4. applies with respect to a parent, the order shall include a determination that the
6 person or agency primarily responsible for providing services to the juvenile is not required
7 to make reasonable efforts with respect to the parent to make it possible for the juvenile to
8 return safely to his or her home, unless the court determines or has determined under a prior
9 order that such efforts would be in the best interests of the juvenile.

NOTE: This SECTION specifies that in extending a JIPS dispositional order, a court must determine that an agency is not required to make reasonable efforts to return a juvenile safely home when the statutorily defined egregious circumstances are found to exist, unless the court determines that such efforts would be in the best interests of the juvenile.

10 SECTION 38. **Initial applicability.**

11 (1) PATERNAL PARTICIPATION IN TERMINATION OF PARENTAL RIGHTS PROCEEDINGS. The
12 treatment of section 48.423 (1) of the statutes first applies to a termination of parental rights
13 proceeding for which the petition is filed on the effective date of this subsection.

NOTE: This SECTION provides that an alleged father who had not otherwise declared or established a relationship with the child may not further participate in a TPR proceeding if the petition is filed after the draft takes effect as law.

1 (2) The creation of section 48.13 (14) of the statutes first applies to a petition filed under
2 section 48.13 of the statutes on the effective date of this subsection after a parent has been
3 given notice under section 48.427 (7) (a) and (b) of the statutes.

NOTE: This SECTION specifies that the new CHIPS ground based on a parent's prior TPR within 3 years applies to a new CHIPS petition if the CHIPS petition is filed after the parent has been informed at a TPR that the TPR could be a CHIPS ground for a child born within the next 3 years.

4 (3) WARNINGS FOR GROUNDS OF AN INVOLUNTARY TERMINATION OF PARENTAL RIGHTS. The
5 treatment of section 48.415 (2) (a) 3., (3) (a), (5) (a), (8), (9) (a) to (c), and (9m) (a) of the
6 statutes first applies to court orders required to contain the notice under section 48.356 (2) or
7 938.356 (2) of the statutes granted on the effective date of this subsection.

NOTE: This SECTION specifies that each of the revised TPR grounds first apply after a parent has been informed in writing of any grounds for TPR that may be applicable, when a child or juvenile has been removed from the home under a dispositional order or its extension or revision.

8 (4) WAIVER BY PARENT OF RIGHT TO COUNSEL BY FAILURE TO APPEAR. The treatment of
9 section 48.23 (2) (c) 2. of the statutes first applies to a parent who is ordered on the effective
10 date of this subsection to appear in person at a hearing in a contested adoption or an involuntary
11 termination of parental rights proceeding.

NOTE: This SECTION specifies that a waiver of counsel from a parent's failure to appear applies in a CHIPS or TPR proceeding if the petition is filed after the draft takes effect as law.

12 (5) POSTDISPOSITIONAL RELIEF PETITION OR NOTICE OF APPEAL; PARENT'S SIGNATURE
13 REQUIRED. The treatment of sections 48.46 (1), (1m), and (2), 809.10 (1) (b) 7., and 809.107
14 (2) (bm) 6. of the statutes first apply to a parent who files a petition for rehearing, motion for
15 postdisposition relief, notice of intent to appeal, or notice of appeal on the effective date of this
16 subsection.

