2013 DRAFTING REQUEST

Bill

Received:	**8/13/2013**	Received By:	**gmalaise**
Wanted:	**As time permits**	Same as LRB:	
For:	**Children and Families**	By/Representing:	**Sara Buschman**
May Contact:		Drafter:	**gmalaise**
Subject:	**Children - out-of-home placement**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **sara.buschman@wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Extended out-of-home care to age 21 for children with individualized educational programs

Instructions:

See attached--permit out-of-home care to age 21 for children with individualized educational plans.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise 9/13/2013	csicilia 9/24/2013	rschluet 9/24/2013	_____ _____			
/P1	gmalaise 10/24/2013			_____ _____	sbasford 9/24/2013		State S&L
/P2	gmalaise 11/12/2013	csicilia 10/30/2013	rschluet 10/30/2013	_____ _____	lparisi 10/30/2013		State S&L
/P3	gmalaise	csicilia	jfrantze	_____	mbarman		State

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
	11/26/2013	11/19/2013	11/20/2013	_____	11/20/2013		S&L
/P4	gmalaise 12/5/2013	csicilia 12/2/2013	jmurphy 12/2/2013	_____ _____	mbarman 12/2/2013		State S&L
/1		csicilia 12/5/2013	rschluet 12/6/2013	_____ _____	mbarman 12/6/2013	lparisi 12/6/2013	State S&L

FE Sent For:

At Intro.

<END>

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1/26 D

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/P4		csicilia 12/2/2013	jmurphy 12/2/2013	_____ _____	mbarman 12/2/2013		State S&L

FE Sent For:

/ 1 gs 12/5/13

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FE Sent For: /P4 gjs 12/2/13 12/2 <END> 12/2

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Subject:	**Children - out-of-home placement**	Addl. Drafters:	
		Extra Copies:	

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/P3 gs 11/19/13 **<END>**

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Subject:	**Children - out-of-home placement**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **sara.buschman@wisconsin.gov**
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/P1				_____ _____	sbasford 9/24/2013		State S&L

/P2 gs 10/29/13 /P2 gs 10/30/13

FE Sent For:

<END>

10/30/13 gs

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Subject:	**Children - out-of-home placement**	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
Requester's email: **sara.buschman@wisconsin.gov**
Carbon copy (CC) to:

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Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	gmalaise	/pl gjs 9/20/13	9/23				

FE Sent For:

<END>

Malaise, Gordon

From: Buschman, Sara - DCF <Sara.Buschman@wisconsin.gov>
Sent: Wednesday, August 07, 2013 6:16 PM
To: Malaise, Gordon
Subject: DCF Drafting request: Extend OHC to age 21 for Youth with IEPs

Gordon,

The Department would like to submit a drafting request to extend the time for youth in out of home care to age 21. This was something that we had in our budget request but JFC instructed us to put forward as separate legislation. If it would be helpful to sit down with staff from the Department to walk you through our proposal we would be happy to do so. This request is a priority for the Department as we have been instructed by the Legislature and they have set aside the funding necessary for this proposal.

If you have any questions or would like me to set up a meeting to discuss the drafting request let me know. Thanks.

Sara

Sara L. Buschman
Assistant Deputy Secretary
Department of Children and Families

201 East Washington Avenue, Madison, WI 53703
Phone: 608.261.6588 ◦ *Fax:* 608.261.6972
Email: sara.buschman@wisconsin.gov

Drafting instructions: Foster care extension

Intent: Modify the current language for the extension of foster care in the budget to allow eligible youth to remain in care up to age 21 under an order contingent on the concurrence of the youth or under a voluntary agreement. If the youth wishes to leave care, the court will hold a transition to discharge hearing to ensure the youth is making an informed decision. The youth may leave care and then re-enter care under a voluntary agreement without having to re-establish court jurisdiction or obtain a new order.

Recommend creating a new provision specifically for this population rather than interweave it within the existing framework, although it's recognized that some references or distinctions may need to be made in other statutory sections.

Concept

Eligibility: applies to any youth, age 19 to 21, in out of home care, who is a full-time student at a secondary school or its vocational or technical equivalent and if an individualized education program under s 115.787 is in effect for the child.

Framework: A court order may extend until age 21, for eligible youth, as long as the youth agrees. If the youth does not want the court order extended once the youth reaches age 19, the youth may enter into a [newly created] Voluntary Bridge Agreement and remain in out of home care on a voluntary basis, with no court order.

If the youth does not want to continue in out of home care, there must be a [newly created] transition to discharge hearing, where the judge will hear the transition plans for the youth and verify that the youth understands that she/he is eligible for continued out of home care placement and is choosing not to participate. If the youth does leave out of home care, an eligible youth can come back in on a voluntary basis under the newly created Voluntary Bridge Agreement (Bridge Agreement). This placement is meant to prepare the youth for independence. The voluntary agreement may be entered into by the youth with the county agency, without notice to or consent by the parent, but consent of or notice of the transition discharge hearing to a guardian with the authority to make placement decisions for the youth is required.

Drafting instructions:

Create a new statutory provision that is applicable only to the target population, as defined in AB 40.

This section should also be applicable to youth who are post-TPR and under a current CHIPS, TPR, JIPs or Delinquency order, subject to the youth's agreement. Youth on a JIPs or Delinquency order may not be sanctioned or placed in secure facilities or detention. A child support order cannot be entered and a parent cannot be charged under section 49.345 for continued care under an extended order for a youth age 19 or older.

Create a new hearing called a Transition to Discharge Hearing which is required 90 days (3 months) prior to 18th birthday or the termination of a CHIPS, Consent Decree, JIPS, or delinquency order that places a child outside the home or a TPR order for a youth age 18 or older, whichever is later, for an eligible youth who is opting out of care. This hearing is to discuss the options of extension of the court order, bridge placement, planning for independence and permanent connections, and/or discharge from care and any aftercare plans for independent services that are available. If, after a hearing, the youth does not want to continue in out of home care, no extension or Bridge Agreement may be entered. The youth must be informed of the right to return to care, as long as the eligibility conditions are met, until 21 or graduation, whichever comes first.

Create language allowing a youth to enter out-of-home care by a Voluntary Bridge Agreement if the court order has lapsed but the youth continues to meet the statutory criterion. In this instance, it is voluntary for a youth to opt in, but mandatory for the county to serve the youth.

The voluntary Bridge Agreement can be terminated at any time by the youth in writing. Termination of a Bridge Agreement does not prevent a youth from entering into another Bridge Agreement, until his or her statutory eligibility ends.

In sections 48.64 and 48.357 or 938.357 **create** a new provision that if the child chooses to leave care or move placements, there is no right for the provider to request appeal of that decision to the agency or court under section 48.64 or request a hearing to the court under section 48.357 or 938.357. There is no right of a parent to object or request a hearing under section 48.357 or 938.357. A guardian with authority to make placement decisions for a youth may object or request a hearing as allowed under section 48.357 or 938.357.

The extension of the court order and the Voluntary Bridge Agreement are entirely voluntary on the part of the youth.

There is no need for parental consent or notice to enter into a Voluntary Bridge Agreement, unless the agreement requires parental participation of some sort.

A guardian with legal authority to make decisions for the youth about placement can enter into a voluntary bridge agreement or consent to the court order extension on behalf of the youth.

Allow the contents of the permanency plan, as specified in 48.38(4) to be modified for this population to remove parental conditions of return and to have a greater focus on transitioning to adulthood and fostering lifelong connections, as appropriate on a case-by-case basis.

Create authority for DCF to amend rules relating to licensing existing facilities, homes and providers.

Malaise, Gordon

From: Henderson, Wendy P - DCF <Wendy.Henderson@wisconsin.gov>
Sent: Tuesday, September 17, 2013 10:53 AM
To: Malaise, Gordon
Subject: One oversight in the FC Extension bill

Gordon,
We forgot to add that we would need the extended youth to qualify as "clients" for the purposes of the background check section (48.685 (am). One way to do that would be to just add
"Client" means a child or young adult served under this chapter who receives...

If it isn't too late and you are able to make that change, or something similar that reaches the same goal, that would be appreciated.
Thanks,
Wendy

Wendy Henderson
Director, Office of Youth Services
Division of Safety and Permanence
Department of Children and Families

201 East Washington Avenue
Madison, WI 53703
T: 608.261.8709
E: wendy.henderson@wisconsin.gov

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–2915/P1
GMM:GMM:.....

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

AN ACT ...; **relating to:** extended out–of–home care to 21 years of age for children with individualized education programs.

Analysis by the Legislative Reference Bureau

Under current law, an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) that places or continues the placement of a child in out–of–home care terminates when the child reaches 18 years of age, one year after entry of the order, or, if the child is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, when the child reaches 19 years of age, whichever is later, unless the juvenile court specified a shorter period of time or terminates the order sooner.

This bill permits a child placed in out–of–home care who is a full–time student at a secondary school or its vocational or technical equivalent and for whom an individualized education program (IEP) is in effect (child with an IEP) to continue in out–of–home care until the child reaches 21 years of age under either an extended dispositional order of the juvenile court or a voluntary transition–to–independent living agreement between the child, or the child's guardian on behalf of the child, and the agency primarily responsible for providing services to the child under the dispositional order (agency). (An IEP is a written statement for a child with a disability developed by an IEP team appointed by the child's local educational agency that includes, among other things, the child's level of academic achievement and functional performance, measurable goals for the child, the special education and related services to be provided to the child, and how the child's progress toward attaining those goals will be measured.)

Specifically, the bill requires an agency, not less than 120 days before a child with an IEP reaches 18 years of age or not less than 120 days before the child's dispositional order terminates, whichever is later, to request the child to indicate whether he or she wishes to be discharged from out–of–home care on termination of the order, wishes to continue in out–of–home care under an extension of the order, or wishes to continue in out–of–home care under a voluntary transition–to–independent living agreement. hyphen

If the child with an IEP indicates that he or she wishes to be discharged from out–of–home care on termination of the dispositional order, the agency must request the juvenile court to hold a transition–to–discharge hearing, and the juvenile court must hold the hearing within 30 days after receipt of the request. At the hearing the juvenile court must review with the child the options of being discharged from out–of–home care on termination of the order, continuing in out–of–home care under an extension of the order, or continuing in out–of–home care under a voluntary agreement. The juvenile court must also advise the child that he or she may continue in out–of–home care under an extension of the dispositional order or under a voluntary transition–to–independent living agreement. or technical hyphen

If the juvenile court determines that the child with an IEP understands that he or she may continue in out–of–home care, but wishes to be discharged from that care on termination of the dispositional order, the juvenile court must order the agency to assist and support the child in developing a transition–to–independent living plan and must advise the child that he or she may enter into a voluntary transition–to–independent living agreement at any time before he or she reaches 21 years of age or graduates from secondary school or its vocational equivalent, whichever occurs first. If the juvenile court determines that the child with an IEP wishes to continue in out–of–home care under a dispositional order, the juvenile court must schedule a hearing for the extension of the dispositional order. If the juvenile court determines that the child with an IEP wishes to continue in out–of–home care under a voluntary transition–to–independent living agreement, the juvenile court must order the agency to provide transition–to–independent living services for the child under such an agreement. hyphens hyphens

The bill permits a child with an IEP, or the child's guardian on behalf of the child, on termination of a dispositional order, to enter into a transition–to–independent living agreement with the agency under which the child continues in out–of–home care until the child reaches 21 years of age, graduates from secondary school or its vocational or technical equivalent, or terminates the agreement, whichever occurs first, and the agency provides services to the child to assist him or her in transitioning to independent living. If at any time during the term of the agreement the child or his or guardian indicates in writing that the child wishes to terminate the agreement, the agency must request the juvenile court to hold a transition–to–discharge hearing. The bill also permits a child who terminates a voluntary transition–to–independent living agreement to enter into a new agreement at any time before he or she reaches 21 years of age or graduates from secondary school or its vocational equivalent, whichever occurs first. her hyphen hyphen

or technical

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

Insert 3-1B

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

1 **SECTION 1.** 20.410 (3) (cg) of the statutes is amended to read:

2 20.410 **(3)** (cg) *Serious juvenile offenders.* Biennially, the amounts in the
3 schedule for juvenile correctional institution, corrective sanctions, alternate care,
4 aftercare, and other juvenile program services specified in s. 938.538 (3) provided for
5 the persons specified in s. 301.26 (4) (cm)~~,~~ and for juvenile correctional institution
6 services for persons placed in juvenile correctional institutions under s. 973.013 (3m)
7 ~~and for juvenile correctional services for persons under 18 years of age placed with~~
8 ~~the department under s. 48.366 (8)~~.

Insert 3-9

History: 1989 a. 31 ss. 340, 361 to 380, 382 to 392; 1989 a. 107, 122, 359; 1991 a. 39; 1993 a. 16, 98, 377, 437, 490; 1995 a. 27, 77, 416, 440; 1997 a. 4, 27, 35, 237, 252, 275, 283, 284; 1999 a. 9, 89; 2001 a. 16; 2003 a. 33; 2005 a. 25 ss. 287 to 295m, 414t, 415wr; 2005 a. 234 s. 4; 2005 a. 344, 433; 2007 a. 20, 97; 2009 a. 28, 71, 100, 182, 233; 2011 a. 32, 38, 266; 2013 a. 20 ss. 335 to 342, 444.

9 **SECTION 2.** 48.355 (4) of the statutes is renumbered 48.355 (4) (a) and amended
10 to read:

11 48.355 **(4)** (a) Except as provided under s. 48.368, an order under this section
12 or s. 48.357 or 48.365 made before the child reaches 18 years of age that places or
13 continues the placement of the child in his or her home shall terminate ~~at the end~~
14 ~~of~~ one year after ~~its entry~~ the date on which the order is entered unless the judge
15 specifies a shorter period of time or the judge terminates the order sooner.

16 (b) Except as provided under s. 48.368, an order under this section or s. 48.357
17 or 48.365 made before the child reaches 18 years of age that places or continues the
18 placement of the child in a foster home, group home, or residential care center for
19 children and youth or in the home of a relative other than a parent shall terminate

~~when~~ on the latest of the following dates, unless the judge specifies a shorter period or the judge terminates the order sooner:

1. The date on which the child reaches 18 years of age~~, at the end of~~.

2. The date that is one year after ~~its entry, or, if~~ the date on which the order is entered.

3. The date on which the child reaches 19 years of age, if the child is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age~~, when the child reaches 19 years of age, whichever is later, unless the judge specifies a shorter period of time or the judge terminates the order sooner~~.

(c) An order under this section or s. 48.357 or 48.365 relating to an unborn child in need of protection or services that is made before the unborn child is born shall terminate ~~at the end of~~ one year after ~~its entry~~ the date on which the order is entered unless the judge specifies a shorter period of time or the judge terminates the order sooner.

SECTION 3. 48.355 (4) (b) 4. of the statutes is created to read:

48.355 **(4)** (b) 4. The date on which the child reaches 21 years of age, if the child is a full–time student at a secondary school or its vocational or technical equivalent, if an individualized education program under s. 115.787 is in effect for the child, and if the child, or the child's guardian on behalf of the child, agrees to termination of the order on that date.

SECTION 4. 48.357 (1) (am) 2. (intro.) of the statutes is amended to read:

48.357 **(1)** (am) 2. (intro.) ~~Any~~ Except as provided in subd. 2r., any person receiving the notice under subd. 1. or notice of a specific placement under s. 48.355 (2) (b) 2., other than a court–appointed special advocate, may obtain a hearing on the

matter by filing an objection with the court within 10 days after receipt of the notice. Except as provided in ~~subd.~~ subds. 2m. and 2r., placements may not be changed until 10 days after that notice is sent to the court unless written waivers of objection are signed as follows:

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; 2011 a. 181; 2011 a. 260 s. 80.

SECTION 5. 48.357 (1) (am) 2r. of the statutes is created to read:

48.357 **(1)** (am) 2r. If the proposed change in placement involves a child who is subject to a dispositional order that terminates as provided in sub. (6) (a) 4. or s. 48.355 (4) (b) 4. or 48.365 (5) (b) 4., the person or agency primarily responsible for implementing the dispositional order, the district attorney, or the corporation counsel may request a change in placement under subd. 1. only if the child or the child's guardian on behalf of the child consents to the change in placement. No hearing is required for a change in placement described in this subdivision, and the child's placement may be changed at any time after notice of the proposed change in placement is sent to the court.

SECTION 6. 48.357 (2m) (a) of the statutes is amended to read:

48.357 **(2m)** (a) ~~The~~ Except as provided in par. (bv), the child, the parent, guardian, legal custodian, or Indian custodian of the child, the expectant mother, the unborn child by the 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, may request a change in placement under this paragraph. The request shall contain the name and address of the new placement requested and shall state what new information is available that affects the advisability of the current placement. If the proposed change in placement would change the placement of a child placed in the child's home to a placement outside the

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

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; 2011 a. 181; 2011 a. 260 s. 80.

9 **SECTION 7.** 48.357 (2m) (b) of the statutes is amended to read:

10 48.357 **(2m)** (b) The court shall hold a hearing prior to ordering any change in
11 placement requested or proposed under par. (a) if the request states that new
12 information is available that affects the advisability of the current placement. ~~A~~
13 Except as provided in par. (bv), a hearing is not required if the requested or proposed
14 change in placement does not involve a change in placement of a child placed in the
15 child's home to a placement outside the child's home, written waivers of objection to
16 the proposed change in placement are signed by all persons entitled to receive notice
17 under this paragraph, other than a court–appointed special advocate, and the court
18 approves. If a hearing is scheduled, not less than 3 days before the hearing the court
19 shall notify the child, the parent, guardian, and legal custodian of the child, any
20 foster parent or other physical custodian described in s. 48.62 (2) of the child, the
21 child's court–appointed special advocate, all parties who are bound by the
22 dispositional order, and, if the child is an Indian child, the Indian child's Indian
23 custodian and tribe. If the child is the expectant mother of an unborn child under
24 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 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.

History: 1977 c. 354; 1979 c. 300; 1987 a. 27; 1989 a. 31, 107; 1993 a. 16, 385, 395, 446, 481, 491; 1995 a. 27, 77, 275, 404; 1997 a. 3, 35, 80, 237, 292; 1999 a. 9, 103, 149; 2001 a. 16, 103, 109; 2005 a. 253; 2007 a. 20; 2009 a. 28, 79, 94; 2011 a. 181; 2011 a. 260 s. 80.

SECTION 8. 48.357 (2m) (bv) of the statutes is created to read:

48.357 **(2m)** (bv) If the proposed change in placement involves a child who is subject to a dispositional order that terminates as provided in sub. (6) (a) 4. or s. 48.355 (4) (am) 4. or 48.365 (5) (b) 4., only the child or the child's guardian on behalf of the child or a person or agency primarily bound by the dispositional order may request a change in placement under par. (a). No hearing is required for a change in placement described in this paragraph if written waivers of objection to the proposed change in placement are signed by all parties that are bound by the dispositional order. If a hearing is scheduled, the court may proceed immediately with the hearing on the consent of the person who requested the change in placement and all parties who are bound by the dispositional order.

SECTION 9. 48.357 (6) of the statutes is renumbered 48.357 (6) (a) (intro.) and amended to read:

48.357 **(6)** (a) (intro.) No change in placement may extend the expiration date of the original order, except that if the change in placement is from a placement in the child's home to a placement outside the home the court may extend the expiration date of the original order to the latest of the following dates, unless the court specifies a shorter period:

1. The date on which the child reaches 18 years of age~~, to the~~.

2. The date that is one year after the date ~~of~~ on which the change in placement order~~, or, if~~ is entered.

3. The date on which the child reaches 19 years of age, if the child is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age~~, to the date on which the child reaches 19 years of age, whichever is later, or for a shorter period of time as specified by the court~~.

(b) If the change in placement is from a placement outside the home to a placement in the child's home and if the expiration date of the original order is more than one year after the date ~~of~~ on which the change in placement order is entered, the court shall shorten the expiration date of the original order to the date that is one year after the date ~~of~~ on which the change in placement order is entered or to an earlier date as specified by the court.

SECTION 10. 48.357 (6) (a) 4. of the statutes is created to read:

48.357 **(6)** (a) 4. The date on which the child reaches 21 years of age, if the child is a full–time student at a secondary school or its vocational or technical equivalent, if an individualized education program under s. 115.787 is in effect for the child, and if the child, or the child's guardian on behalf of the child, agrees to termination of the order on that date.

SECTION 11. 48.365 (5) of the statutes is renumbered 48.365 (5) (a) and amended to read:

48.365 **(5)** (a) Except as provided in s. 48.368, an order under this section that continues the placement of a child in his or her home or that relates to an unborn

child of an adult expectant mother shall be for a specified length of time not to exceed one year after ~~its~~ the date ~~of entry~~ on which the order is entered.

(b) Except as provided in s. 48.368, an order under this section that continues the placement of a child in an out–of–home placement shall be for a specified length of time not to exceed the latest of the following dates:

1. The date on which the child reaches 18 years of age~~,~~.

2. The date that is one year after the date ~~of entry of~~ on which the order~~, or, if~~ is entered.

3. The date on which the child reaches 19 years of age, if the child is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, the date on which the child reaches 19 years of age~~, whichever is later~~.

SECTION 12. 48.365 (5) (b) 4. of the statutes is created to read:

48.365 **(5)** (b) 4. The date on which the child reaches 21 years of age, if the child is a full–time student at a secondary school or its vocational or technical equivalent, if an individualized education program under s. 115.787 is in effect for the child, and if the child, or the child's guardian on behalf of the child, agrees to termination of the order on that date. other than an order that terminates as provided in s. 48.355 (4)(b) 4., 48.357 (6)(a)4., or 48.365 (5) (b) 4.

SECTION 13. 48.366 of the statutes is repealed and recreated to read:

48.366 Extended out–of–home care. (1) APPLICABILITY. This section applies to a person who is placed in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent under an order under s. 48.355, 48.357, or 48.365, who is a full–time student of a secondary school or its vocational or technical equivalent, and for whom an individualized education program under s. 115.787 is in effect.

described in sub (1)

(2) TRANSITION–TO–DISCHARGE HEARING. (a) Not less than 120 days before a person described in sub. (1) reaches 18 years of age or not less than 120 days before the order ~~under s. 48.355, 48.357, or 48.365~~ terminates, whichever is later, the agency primarily responsible for providing services to the person under the order shall request the person to indicate whether he or she wishes to be discharged from out–of–home care on termination of the order, wishes to continue in out–of–home care under an extension of the order, or wishes to continue in out–of–home care under a voluntary agreement under sub. (3).

described in sub. (1)

(b) 1. If the person ~~described~~ in sub. (1) indicates that he or she wishes to be discharged from out–of–home care on termination of the order ~~under s. 48.355, 48.357, or 48.365~~, the agency primarily responsible for providing services to the person under the order shall request the court to hold a transition–to–discharge hearing and shall cause notice of that request to be provided to that person, the parent, guardian, and legal custodian of that person, any foster parent or other physical custodian described in s. 48.62 (2) of that person, that person's court–appointed special advocate, all parties who are bound by the dispositional order, and, if that person is an Indian child who has been removed from the home of his or her parent or Indian custodian, that person's Indian custodian and tribe.

2. The court shall hold a hearing requested under subd. 1. within 30 days after receipt of the request. Not less than 3 days before the hearing, the agency requesting the hearing shall provide notice of the hearing to all persons who are entitled to receive notice of the request under subd. 1. A copy of the request shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing.

described in sub. (1)

3. At the hearing the court shall review with the person described in sub. (1) the options specified in par. (a) and shall advise the person that he or she may continue in out–of–home care under an extension of the order ~~under s. 48.355, 48.357, or 48.365~~ or under a voluntary agreement under sub. (3).

4. If the court determines that the person understands that he or she may continue in out–of–home care, but wishes to be discharged from that care on termination of the order, the court shall order the agency primarily responsible for providing services to the person under the order to assist and support the person in developing a transition–to–independent–living plan under s. 48.385 and shall advise the person that he or she may enter into a voluntary agreement under sub. (3) at any time before he or she reaches 21 years of age or graduates from secondary school or its vocational or technical equivalent, whichever occurs first. If the court determines that the person wishes to continue in out–of–home care under an extension of the order ~~under s. 48.355~~ described in sub. (1), the court shall schedule an extension hearing under s. 48.365. If the court determines that the person wishes to continue in out–of–home care under a voluntary agreement under sub. (3), the court shall order the agency primarily responsible for providing services to the person under the order to provide transition–to–independent–living services for the person under a voluntary agreement under sub. (3).

(3) VOLUNTARY TRANSITION–TO–INDEPENDENT–LIVING AGREEMENT. (a) On termination of an order ~~under s. 48.355, 48.357, or 48.365~~ described in sub. (1), a person described in sub. (1), or the person's guardian on behalf of the person, and the agency primarily responsible for providing services to the person under the order may enter into a transition–to–independent–living agreement under which the person continues in out–of–home care until the person reaches 21 years of age, graduates from secondary school or its vocational or technical equivalent, or terminates the agreement as

may request

or the person's guardian on the person's behalf, and the agency primarily responsible for providing services to the person under the agreement to

1 provided in par. (b), whichever occurs first, and the agency provides services to the
2 person to assist him or her in transitioning to independent living.

3 (b) If at any time during the term of an agreement under par. (a) the person
4 described in sub. (1) or his or her guardian indicates in writing that the person wishes
5 to terminate the agreement, the agency shall request the court to hold a
6 transition–to–discharge hearing, and the court shall hold such a hearing, as
7 provided in sub. (2) (b), except that notice of the request and hearing need only be
8 provided to that person, his or her guardian, the foster parent or other physical
9 custodian described in s. 48.62 (2) of that person, that person's court–appointed
10 special advocate, and all parties who are bound by the agreement.

11 (c) A person who terminates a voluntary agreement under this subsection ~~may~~
12 enter into a new voluntary agreement under this subsection at any time before ~~he~~
13 ~~or she~~ the person reaches 21 years of age or graduates from secondary school or its vocational
14 or technical equivalent, whichever occurs first. On receipt of such a request, the agency shall enter into a new voluntary agreement with that person.

15 **(4)** RULES. The department shall promulgate rules to implement this section.
16 Those rules shall include rules permitting a foster home, group home, or residential
17 care center for children and youth to provide care for persons who agree to continue
18 in out–of–home care under an extension of an order ~~under s. 48.355~~ described in sub. (1) or a voluntary agreement under
19 sub. (3).

20 **SECTION 14.** 48.38 (4) (ar) of the statutes is renumbered 48.38 (4) (ar) (intro.)
21 and amended to read:

22 48.38 **(4)** (ar) (intro.) A description of the services offered and any services
23 provided in an effort to prevent the removal of the child from his or her home, while
24 assuring that the health and safety of the child are the paramount concerns, and to
25 achieve the goal of the permanency plan, except that the permanency plan is not

required to include a description of the services offered or provided with respect to a parent of the child to prevent the removal of the child from the home or to achieve the permanency goal of returning the child safely to his or her home if any of the following ~~apply~~: applies

PLAIN

1. Any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. ~~applies~~ apply to that parent.

History: 1983 a. 399; 1985 a. 70 ss. 1, 10; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1987 a. 383; 1989 a. 31, 86, 107; 1993 a. 377, 385, 395, 446, 491; 1995 a. 27 ss. 2474 to 2478, 9126 (19); 1995 a. 77, 143, 275; 1997 a. 27, 35, 104, 237; 1999 a. 149; 2001 a. 2, 59, 69, 109; 2005 a. 344, 448; 2007 a. 20; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 ss. 80, 81; s. 13.92 (2) (i); s. 35.17 correction in (2) (intro.).

SECTION 15. 48.38 (4) (ar) 2. of the statutes is created to read:

48.38 **(4)** (ar) 2. The child is subject to an order under s. 48.355, 48.357, or 48.365 that terminates as provided in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4., or 48.365 (5) (b) 4. or has entered into a voluntary transition–to–independent living agreement under s. 48.366 (3).

SECTION 16. 48.38 (4) (fg) 6. of the statutes is created to read:

48.38 **(4)** (fg) 6. If the child is subject to an order under s. 48.355, 48.357, or 48.365 that terminates as provided in s. 48.355 (4) (b) 4., 48.357 (6) (a) 4., or 48.365 (5) (b) 4. or has entered into a voluntary transition–to–independent living agreement under s. 48.366 (3), transition to independent living.

SECTION 17. 48.385 of the statutes is amended to read:

48.385 Plan for transition to independent living. During the 90 days immediately before a child who is placed in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent attains 18 years of age or, if the child is placed in such a placement under an order under s. 48.355, 48.357, or 48.365~~, 938.355, 938.357, or 938.365~~ that terminates under s. 48.355 (4) ~~or 938.355 (4)~~ (b) after the child attains 18 years of age, during the 90 days immediately before the termination of the order, the agency primarily

responsible for providing services to the child under the order shall provide the child with assistance and support in developing a plan for making the transition from out–of–home care to independent living. The transition plan shall be personalized at the direction of the child, shall be as detailed as the child directs, and shall include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

History: 2009 a. 79; 2011 a. 32.

SECTION 18. 48.44 (1) of the statutes is renumbered 48.44 and amended to read:

48.44 Jurisdiction over persons 17 or older. The court has jurisdiction over persons 17 years of age or older as provided under ss. 48.133, 48.355 (4), and 48.45 and as otherwise specifically provided in this chapter.

History: 1971 c. 213 s. 5; 1975 c. 39; 1977 c. 354; 1987 a. 27; 1989 a. 121; 1995 a. 27; 1997 a. 35, 292.

SECTION 19. 48.44 (2) of the statutes is repealed.

SECTION 20. 48.57 (3m) (a) 1. of the statutes is amended to read:

48.57 **(3m)** (a) 1. "Child" means a person under 18 years of age ~~or~~; a person 18 years of age or over, but under 19 years of age, who is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent and who is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma; or a person 18 years of age or over, but under 21 years of age, who is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent if an individualized education program under s. 115.787 is in effect for the person.

SECTION 21. 48.57 (3n) (a) 1. of the statutes is amended to read:

48.57 **(3n)** (a) 1. "Child" means a person under 18 years of age ~~or~~; a person 18 years of age or over, but under 19 years of age, who is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent and

is granted a high school or high school equivalency diploma or the date on which the child

who is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma; or a person 18 years of age or over, but under 21 years of age, who is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent if an individualized education program under s. 115.787 is in effect for the person.

SECTION 22. 48.57 (3n) (am) 6. a. of the statutes is amended to read:

48.57 **(3n)** (am) 6. a. The date on which the child attains the age of 18 years; or, if on that date the child is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent and is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma, the date on which the child is granted a high school or high school equivalency diploma or the date on which the child attains the age of 19 years, whichever occurs first; or, if on that date the child is a full–time student in good academic standing at a secondary school or its vocational or technical equivalent and an individualized education program under s. 115.787 is in effect for the child, the date on which the child attains the age of 21 years. whichever occurs first

SECTION 23. 48.619 of the statutes is renumbered 48.619 (intro.) and amended to read:

48.619 Definition. (intro.) In this subchapter, "child" means a person under 18 years of age ~~and also includes, for~~. For purposes of counting the number of children for whom a foster home or group home may provide care and maintenance, "child" also includes a person 18 years of age or over~~, but~~ who was residing in the foster home or group home immediately prior to his or her 18th birthday and who continues to reside in that foster home or group home, if any of the following applies:

1 (1) The person is under 19 years of age, ~~who~~ is a full–time student at a
2 secondary school or its vocational or technical equivalent, ~~who~~ and is reasonably
3 expected to complete the program before reaching 19 years of age~~, who was residing~~
4 ~~in the foster home or group home immediately prior to his or her 18th birthday, and~~
5 ~~who continues to reside in that foster home or group home~~.

6 **SECTION 24.** 48.619 (2) of the statutes is created to read:

7 48.619 **(2)** The person is under 21 years of age, is a full–time student at a
8 secondary school or its vocational or technical equivalent, and an individualized
9 education program under s. 115.787 is in effect for the person.

10 **SECTION 25.** 48.64 (4) (a) of the statutes is amended to read:

11 48.64 **(4)** (a) ~~Any~~ Except as provided in par. (d), any decision or order issued by
12 an agency that affects the head of a foster home or group home, the head of the home
13 of a relative other than a parent in which a child is placed, or the child involved may
14 be appealed to the department under fair hearing procedures established under
15 rules promulgated by the department. Upon receipt of an appeal, the department
16 shall give the head of the home reasonable notice and an opportunity for a fair
17 hearing. The department may make any additional investigation that the
18 department considers necessary. The department shall give notice of the hearing to
19 the head of the home and to the departmental subunit, county department, or child
20 welfare agency that issued the decision or order. Each person receiving notice is
21 entitled to be represented at the hearing. At all hearings conducted under this
22 paragraph, the head of the home, or a representative of the head of the home, shall
23 have an adequate opportunity, notwithstanding s. 48.78 (2) (a), to examine all
24 documents and records to be used at the hearing at a reasonable time before the date
25 of the hearing as well as during the hearing, to bring witnesses, to establish all

1 pertinent facts and circumstances, and to question or refute any testimony or
2 evidence, including an opportunity to confront and cross–examine adverse
3 witnesses. The department shall grant a continuance for a reasonable period of time
4 when an issue is raised for the first time during a hearing. This requirement may
5 be waived with the consent of the parties. The decision of the department shall be
6 based exclusively on evidence introduced at the hearing. A transcript of testimony
7 and exhibits, or an official report containing the substance of what transpired at the
8 hearing, together with all papers and requests filed in the proceeding, and the
9 findings of the hearing examiner shall constitute the exclusive record for decision by
10 the department. The department shall make the record available at any reasonable
11 time and at an accessible place to the head of the home or his or her representative.
12 Decisions by the department shall specify the reasons for the decision and identify
13 the supporting evidence. No person participating in an agency action being appealed
14 may participate in the final administrative decision on that action. The department
15 shall render its decision as soon as possible after the hearing and shall send a
16 certified copy of its decision to the head of the home and to the departmental subunit,
17 county department, or child welfare agency that issued the decision or order. The
18 decision shall be binding on all parties concerned.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 418, 447, 449; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1989 a. 31, 107; 1993 a. 395, 446, 491; 1995 a. 27 ss. 2595, 9126 (19); 1997 a. 104; 2001 a. 69; 2005 a. 293; 2007 a. 20; 2009 a. 28, 81.

19 **SECTION 26.** 48.64 (4) (c) of the statutes is amended to read:

20 48.64 **(4)** (c) ~~The~~ Except as provided in par. (d), the circuit court for the county
21 where the dispositional order placing a child in a foster home or group home or in the
22 home of a relative other than a parent was entered or the voluntary agreement under
23 s. 48.63 placing a child in a foster home or group home was made has jurisdiction
24 upon petition of any interested party over the child who is placed in the foster home,

group home, or home of the relative. The circuit court may call a hearing, at which the head of the home and the supervising agency under sub. (2) shall be present, for the purpose of reviewing any decision or order of that agency involving the placement and care of the child. If the child has been placed in a foster home or in the home of a relative other than a parent, the foster parent or relative may present relevant evidence at the hearing. The petitioner has the burden of proving by clear and convincing evidence that the decision or order issued by the agency is not in the best interests of the child.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 418, 447, 449; 1985 a. 176; 1985 a. 292 s. 3; 1985 a. 332; 1989 a. 31, 107; 1993 a. 395, 446, 491; 1995 a. 27 ss. 2595, 9126 (19); 1997 a. 104; 2001 a. 69; 2005 a. 293; 2007 a. 20; 2009 a. 28, 81.

SECTION 27. 48.64 (4) (d) of the statutes is created to read:

48.64 **(4)** (d) No decision or order to change the placement of a child described in s. 48.357 (1) (am) 2r. or (2m) (bv) or 938.357 (1) (am) 2r. or (2m) (bv) may be appealed to the department under par. (a) or reviewed by the circuit court under par. (c).

Insert 18-13

SECTION 28. 48.78 (2) (d) 3. of the statutes is repealed.

SECTION 29. 227.03 (4) of the statutes is amended to read:

227.03 **(4)** The provisions of this chapter relating to contested cases do not apply to proceedings involving the revocation of aftercare supervision under s. ~~48.366 (5) or~~ 938.357 (5), the revocation of parole, extended supervision, or probation, the grant of probation, prison discipline, mandatory release under s. 302.11, or any other proceeding involving the care and treatment of a resident or an inmate of a correctional institution.

History: 1985 a. 182; 1989 a. 31; 1991 a. 32, 295; 1993 a. 16, 263, 377; 1995 a. 27 ss. 6224 to 6226m, 9130 (4); 1995 a. 77, 227, 351; 1997 a. 3, 191, 237, 283; 1999 a. 82; 2003 a. 33; 2007 a. 1; 2013 a. 20.

SECTION 30. 301.03 (9) of the statutes is amended to read:

1 301.03 **(9)** Supervise all persons placed under s. ~~48.366 (8) or~~ 938.183 in a state
2 prison.

History: 1989 a. 31, 107, 121, 188, 336; 1991 a. 39; 1993 a. 16, 377, 479; 1995 a. 27 ss. 6355, 6356m, 6356p, 9126 (19); 1995 a. 77, 141; 1997 a. 27, 35, 237, 275, 283, 284; 1999 a. 9, 32; 2001 a. 16, 109; 2003 a. 321; 2005 a. 344, 431, 434, 451; 2007 a. 1; 2007 a. 20 ss. 3100g, 9121 (6) (a); 2007 a. 96, 97; 2009 a. 28, 100; 2011 a. 32, 38.

3 **SECTION 31.** 301.12 (2) of the statutes is amended to read:

4 301.12 **(2)** Except as provided in subs. (2m) and (14) (b) and (c), any person,
5 including ~~but not limited to~~ a person placed under s. ~~48.366,~~ 938.183, 938.34 (4h) or
6 (4m), or 938.357 (4) or (5) (e), receiving care, maintenance, services, and supplies
7 provided by any institution in this state operated or contracted for by the
8 department, in which the state is chargeable with all or part of the person's care,
9 maintenance, services, and supplies, and the person's property and estate, including
10 the homestead, and the spouse of the person, and the spouse's property and estate,
11 including the homestead, and, in the case of a minor child, the parents of the person,
12 and their property and estates, including their homestead, and, in the case of a
13 foreign child described in s. 48.839 (1) who became dependent on public funds for his
14 or her primary support before an order granting his or her adoption, the resident of
15 this state appointed guardian of the child by a foreign court who brought the child
16 into this state for the purpose of adoption, and his or her property and estate,
17 including his or her homestead, shall be liable for the cost of the care, maintenance,
18 services, and supplies in accordance with the fee schedule established by the
19 department under s. 301.03 (18). If a spouse, widow, or minor, or an incapacitated
20 person, may be lawfully dependent upon the property for ~~their~~ his or her support, the
21 court shall release all or such part of the property and estate from the charges that
22 may be necessary to provide for ~~those persons~~ that person. The department shall
23 make every reasonable effort to notify the liable persons as soon as possible after the

1 beginning of the maintenance, but the notice or the receipt of the notice is not a
2 condition of liability.

History: 1995 a. 27 ss. 6361, 9126 (19); 1995 a. 77; 1997 a. 237; 1999 a. 103; 2001 a. 59; 2007 a. 20, 97; 2009 a. 28, 218; 2011 a. 260.

3 **SECTION 32.** 301.26 (4) (a) of the statutes is amended to read:

4 301.26 **(4)** (a) Except as provided in pars. (c) and (cm), the department of
5 corrections shall bill counties or deduct from the allocations under s. 20.410 (3) (cd)
6 for the costs of care, services, and supplies purchased or provided by the department
7 of corrections for each person receiving services under s. ~~48.366,~~ 938.183 or 938.34
8 or the department of health services for each person receiving services under s.
9 46.057 or 51.35 (3). The department of corrections may not bill a county for or deduct
10 from a county's allocation the cost of care, services, and supplies provided to a person
11 subject to an order under s. ~~48.366 or~~ 938.183 after the person reaches 18 years of
12 age. Payment shall be due within 60 days after the billing date. If any payment has
13 not been received within those 60 days, the department of corrections may withhold
14 aid payments in the amount due from the appropriation under s. 20.410 (3) (cd).

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 32; 2013 a. 20.

15 **SECTION 33.** 301.26 (4) (b) of the statutes is amended to read:

16 301.26 **(4)** (b) Assessment of costs under par. (a) shall be made periodically on
17 the basis of the per person per day cost estimate specified in par. (d) 2., 3., and 4.
18 Except as provided in pars. (bm), (c), and (cm), liability shall apply to county
19 departments under s. 46.21, 46.22, or 46.23 in the county of the court exercising
20 jurisdiction under ~~chs. 48 and~~ ch. 938 for each person receiving services from the
21 department of corrections under s. ~~48.366,~~ 938.183~~,~~ or 938.34 or the department of
22 health services under s. 46.057 or 51.35 (3). Except as provided in pars. (bm), (c), and
23 (cm), in multicounty court jurisdictions, the county of residency within the
24 jurisdiction shall be liable for costs under this subsection. Assessment of costs under

1 par. (a) shall also be made according to the general placement type or level of care
2 provided, as defined by the department, and prorated according to the ratio of the
3 amount designated under sub. (3) (c) to the total applicable estimated costs of care,
4 services, and supplies provided by the department of corrections under ss. ~~48.366,~~
5 938.183~~,~~ and 938.34 and the department of health services under s. 46.057 or 51.35
6 (3).

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 32; 2013 a. 20.

7 **SECTION 34.** 301.26 (4) (c) of the statutes is amended to read:

8 301.26 **(4)** (c) Notwithstanding pars. (a), (b), and (bm), the department of
9 corrections shall pay, from the appropriation under s. 20.410 (3) (hm), (ho). or (hr),
10 the costs of care, services, and supplies provided for each person receiving services
11 under s. 46.057, ~~48.366,~~ 51.35 (3), 938.183, or 938.34 who was under the
12 guardianship of the department of children and families pursuant to an order under
13 ch. 48 at the time that the person was adjudicated delinquent.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 32; 2013 a. 20.

14 **SECTION 35.** 301.26 (4) (cm) 2. of the statutes is repealed.

15 **SECTION 36.** 301.26 (4) (d) 1m. of the statutes is amended to read:

16 301.26 **(4)** (d) 1m. Except as provided in pars. (e) to (g), for services under ~~ss.~~
17 ~~48.366 and~~ s. 938.183, all payments and deductions made under this subsection and
18 uniform fee collections made under s. 301.03 (18) shall be credited to the
19 appropriation account under s. 20.410 (3) (hm).

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28; 2011 a. 32; 2013 a. 20.

20 **SECTION 37.** 302.11 (1) of the statutes is amended to read:

21 302.11 **(1)** The warden or superintendent shall keep a record of the conduct of
22 each inmate, specifying each infraction of the rules. Except as provided in subs. (1g),
23 (1m), (1q), (1z), and (7) ~~and (10)~~, each inmate is entitled to mandatory release on

parole by the department. The mandatory release date is established at two–thirds of the sentence. Any calculations under this subsection or sub. (1q) (b) or (2) (b) resulting in fractions of a day shall be rounded in the inmate's favor to a whole day.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266; 1983 a. 66, 528; 1985 a. 27; 1985 a. 332 s. 251 (1); 1987 a. 27, 412; 1989 a. 31 ss. 1629, 1630; Stats. s. 302.11; 1989 a. 107; 1991 a. 39; 1993 a. 79, 97, 194, 289, 483; 1995 a. 77, 448; 1997 a. 133, 275, 283, 284, 295, 326; 1999 a. 188; 2001 a. 16, 109; 2005 a. 344; 2009 a. 28; 2011 a. 38.

SECTION 38. 302.11 (10) of the statutes is repealed.

SECTION 39. 302.17 (2) of the statutes is amended to read:

302.17 **(2)** The department shall make entries on the register to reflect the progress made by each inmate while incarcerated and the inmate's release on parole or extended supervision, condition at the time of release on parole or extended supervision and progress made while on parole or extended supervision. ~~This subsection does not apply to inmates subject to an order under s. 48.366.~~

History: 1987 a. 27, 403; 1989 a. 31 s. 1635; Stats. 1989 s. 302.17; 1997 a. 283.

SECTION 40. 302.17 (3) of the statutes is repealed.

SECTION 41. 302.255 of the statutes is repealed.

SECTION 42. 302.31 (7) of the statutes is amended to read:

302.31 **(7)** The temporary placement of persons in the custody of the department, other than persons under 17 years of age, and persons who have attained the age of 17 years but have not attained the age of 25 years who are under the supervision of the department under s. ~~48.366 or~~ 938.355 (4) and who have been taken into custody pending revocation of aftercare supervision under s. ~~48.366 (5) or~~ 938.357 (5) (e).

History: 1981 c. 20; 1989 a. 31 s. 1646; Stats. 1989 s. 302.31; 1989 a. 336; 1991 a. 39; 1993 a. 16, 89, 385, 490; 1995 a. 27, 77; 2003 a. 81, 226, 326; 2007 a. 200.

SECTION 43. 304.15 of the statutes is repealed.

SECTION 44. 938.355 (4) (a) of the statutes is amended to read:

938.355 **(4)** (a) Except as provided under par. (b) or s. 938.368, an order under this section or s. 938.357 or 938.365 made before the juvenile attains 18 years of age

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that places or continues the placement of the juvenile in his or her home shall terminate ~~at the end of~~ one year after the date on which the order is granted unless the court specifies a shorter period of time or the court terminates the order sooner.

(am) Except as provided in par. (b) or s. 938.368, an order under this section or s. 938.357 or 938.365 made before the juvenile attains 18 years of age that places or continues the placement of the juvenile in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent shall terminate ~~when~~ on the latest of the following dates, unless the court specifies a shorter period or the court terminates the order sooner:

1. The date on which the juvenile attains 18 years ~~of~~ age~~, at the end of~~.

2. The date that is one year after the date on which the order is granted~~, or, if~~.

3. The date on which the juvenile ~~reaches~~ 19 years of age, if the juvenile is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before attaining 19 years of age~~, when the juvenile attains 19 years of age, whichever is later, unless the court specifies a shorter period of time or the court terminates the order sooner~~.

SECTION 45. 938.355 (4) (am) 4. of the statutes is created to read:

938.355 **(4)** (am) 4. The date on which the juvenile ~~reaches~~ 21 years of age, if the juvenile is a full–time student at a secondary school or its vocational or technical equivalent, if an individualized education program under s. 115.787 is in effect for the juvenile, and if the juvenile, or the juvenile's guardian on behalf of the juvenile, agrees to termination of the order on that date.

SECTION 46. 938.355 (6) (a) 1. of the statutes is amended to read:

938.355 **(6)** (a) 1. ~~If~~ Except as provided in subd. 3., if a juvenile who has been adjudged delinquent or to have violated a civil law or ordinance, other than an

ordinance enacted under s. 118.163 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in par. (d). ~~A sanction may be imposed under this subdivision only if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.~~

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

SECTION 47. 938.355 (6) (a) 2. of the statutes is amended to read:

938.355 **(6)** (a) 2. ~~If~~ Except as provided in subd. 3., if a juvenile who has been found to be in need of protection or services under s. 938.13 (4), (6m), (7), (12), or (14) violates a condition specified in sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions under par. (d), other than placement in a juvenile detention facility or juvenile portion of a county jail.

2m. A sanction may be imposed under ~~this subdivision~~ subd. 1. or 2. only if, at the dispositional hearing under s. 938.335, the court explained the conditions to the juvenile and informed the juvenile of those possible sanctions or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and possible sanctions and that he or she understands those conditions and possible sanctions.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

SECTION 48. 938.355 (6) (a) 3. of the statutes is created to read:

938.355 **(6)** (a) 3. The court may not impose a sanction under subd. 1. or 2. on a juvenile who is subject to an order under s. 938.355, 938.357, or 938.365 that

this section or s.

terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4.

SECTION 49. 938.355 (6d) (a) 1. of the statutes is amended to read:

938.355 **(6d)** (a) 1. Notwithstanding ss. 938.19 to 938.21, but subject to ~~any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision~~ subds. 2g., 2m., and 2r., if a juvenile who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a juvenile detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of a sanction under sub. (6) are being investigated.

2m. Short–term detention may be imposed under ~~this subdivision~~ subd. 1. or 2. only if at the dispositional hearing the court explained those conditions to the juvenile and informed the juvenile of that possible placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

SECTION 50. 938.355 (6d) (a) 2. of the statutes is amended to read:

938.355 **(6d)** (a) 2. Notwithstanding ss. 938.19 to 938.21, but subject to ~~any general written policies adopted by the court under s. 938.06 (1) or (2) and to any~~

1 ~~policies adopted by the county board relating to the taking into custody and~~
2 ~~placement of a juvenile under this subdivision~~ subds. 2g., 2m., and 2r., if a juvenile
3 who has been adjudged delinquent violates a condition specified in sub. (2) (b) 7., the
4 juvenile's caseworker or any other person authorized to provide or providing intake
5 or dispositional services for the court under s. 938.067 or 938.069 may, without a
6 hearing, take the juvenile into custody and place the juvenile in a juvenile detention
7 facility or juvenile portion of a county jail that meets the standards promulgated by
8 the department by rule or in a place of nonsecure custody designated by that person
9 for not more than 72 hours as a consequence of that violation. ~~Short–term detention~~
10 ~~may be imposed under this subdivision only if at the dispositional hearing the court~~
11 ~~explained those conditions to the juvenile and informed the juvenile of that possible~~
12 ~~placement or if before the violation the juvenile has acknowledged in writing that he~~
13 ~~or she has read, or has had read to him or her, those conditions and that possible~~
14 ~~placement and that he or she understands those conditions and that possible~~
15 ~~placement.~~ A person who takes a juvenile into custody under this subdivision shall
16 permit the juvenile to make a written or oral statement concerning the possible
17 placement of the juvenile and the course of conduct for which the juvenile was taken
18 into custody. A person designated by the court or county department who is employed
19 in a supervisory position by a person authorized to provide or providing intake or
20 dispositional services under s. 938.067 or 938.069 shall review that statement and
21 either approve the placement, modify the terms of the placement, or order the
22 juvenile to be released from custody.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

23 **SECTION 51.** 938.355 (6d) (a) 2g. of the statutes is created to read:

938.355 **(6d)** (a) 2g. The taking into custody and placement of a juvenile under subd. 1. or 2. is subject to any general written policies adopted by the court under s. 938.06 (1) and (2) and to any policies adopted by the county board relating to such taking into custody and placement.

SECTION 52. 938.355 (6d) (a) 2r. of the statutes is created to read:

938.355 **(6d)** (a) 2r. A juvenile who is subject to an order under s. 938.355, 938.357 or 938.365 that terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4. or 938.365 (5) (b) 4. may not be taken into custody under subd 1. or 2.

SECTION 53. 938.355 (6d) (b) 1. of the statutes is amended to read:

938.355 **(6d)** (b) 1. Notwithstanding ss. 938.19 to 938.21, but subject to ~~any general written policies adopted by the court under s. 938.06 (1) or (2), to any policies adopted by the county department relating to aftercare supervision administered by the county department, and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision~~ subds. 2g., 2m., and 2r., if a juvenile who is on aftercare supervision administered by ~~the~~ a county department violates a condition of that supervision, the juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place the juvenile in a juvenile detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of nonsecure custody designated by that person for not more than 72 hours while the alleged violation and the appropriateness of revoking the juvenile's aftercare status are being investigated.

2m. Short–term detention may be imposed under ~~this subdivision~~ subd. 1. or 2. only if at the dispositional hearing the court explained those conditions to the

1 juvenile and informed the juvenile of that possible placement or if before the
2 violation the juvenile has acknowledged in writing that he or she has read, or has had
3 read to him or her, those conditions and that possible placement and that he or she
4 understands those conditions and that possible placement.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

5 **SECTION 54.** 938.355 (6d) (b) 2. of the statutes is amended to read:

6 938.355 **(6d)** (b) 2. Notwithstanding ss. 938.19 to 938.21, but subject to ~~any~~
7 ~~general written policies adopted by the court under s. 938.06 (1) or (2), to any policies~~
8 ~~adopted by the county department relating to aftercare supervision administered by~~
9 ~~the county department, and to any policies adopted by the county board relating to~~
10 ~~the taking into custody and placement of a juvenile under this subdivision~~ subds. 2g.,
11 2m., and 2r., if a juvenile who is on aftercare supervision administered by the county
12 department violates a condition of that supervision, the juvenile's caseworker or any
13 other person authorized to provide or providing intake or dispositional services for
14 the court under s. 938.067 or 938.069 may, without a hearing, take the juvenile into
15 custody and place the juvenile in a juvenile detention facility or juvenile portion of
16 a county jail that meets the standards promulgated by the department by rule or in
17 a place of nonsecure custody designated by that person for not more than 72 hours
18 as a consequence of that violation. ~~Short–term detention under this subdivision may~~
19 ~~be imposed only if at the dispositional hearing the court explained those conditions~~
20 ~~to the juvenile and informed the juvenile of that possible placement or if before the~~
21 ~~violation the juvenile has acknowledged in writing that he or she has read, or has had~~
22 ~~read to him or her, those conditions and that possible placement and that he or she~~
23 ~~understands those conditions and that possible placement.~~ A person who takes a
24 juvenile into custody under this subdivision shall permit the juvenile to make a

written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and either approve the placement of the juvenile, modify the terms of the placement, or order the juvenile to be released from custody.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

SECTION 55. 938.355 (6d) (b) 2g. of the statutes is created to read:

938.355 **(6d)** (b) 2g. The taking into custody and placement of a juvenile under subd. 1. or 2. is subject to any general written policies adopted by the court under s. 938.06 (1) and (2), to any policies adopted by the county department relating to aftercare supervision administered by the county department, and to any policies adopted by the county board relating to such taking into custody and placement.

SECTION 56. 938.355 (6d) (b) 2r. of the statutes is created to read:

938.355 **(6d)** (b) 2r. A juvenile who is subject to an order under s. 938.355, 938.357, or 938.365 that terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4. may not be taken into custody under subd 1. or 2.

SECTION 57. 938.355 (6d) (c) 1. of the statutes is amended to read:

938.355 **(6d)** (c) 1. Notwithstanding ss. 938.19 to 938.21, but subject to ~~any general written policies adopted by the court under s. 938.06 (1) or (2) and to any policies adopted by the county board relating to the taking into custody and placement of a juvenile under this subdivision~~ subds. 2g., 2m., and 2r., if a juvenile who has been found to be in need of protection or services under s. 938.13 violates a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person

1 authorized to provide or providing intake or dispositional services for the court under
2 s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place
3 the juvenile in a place of nonsecure custody designated by that person for not more
4 than 72 hours while the alleged violation and the appropriateness of a sanction
5 under sub. (6) or (6m) are being investigated.

6 2m. Short–term detention may be imposed under ~~this subdivision~~ subd. 1. or
7 2. only if at the dispositional hearing the court explained those conditions to the
8 juvenile and informed the juvenile of that possible placement or if before the
9 violation the juvenile has acknowledged in writing that he or she has read, or has had
10 read to him or her, those conditions and that possible placement and that he or she
11 understands those conditions and that possible placement.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

12 **SECTION 58.** 938.355 (6d) (c) 2. of the statutes is amended to read:

13 938.355 **(6d)** (c) 2. Notwithstanding ss. 938.19 to 938.21, but subject to ~~any~~
14 ~~general written policies adopted by the court under s. 938.06 (1) or (2) and to any~~
15 ~~policies adopted by the county board relating to the taking into custody and~~
16 ~~placement of a juvenile under this subdivision~~ subds. 2g., 2m., and 2r., if a juvenile
17 who has been found to be in need of protection or services under s. 938.13 violates
18 a condition specified in sub. (2) (b) 7., the juvenile's caseworker or any other person
19 authorized to provide or providing intake or dispositional services for the court under
20 s. 938.067 or 938.069 may, without a hearing, take the juvenile into custody and place
21 the juvenile in a place of nonsecure custody designated by that person for not more
22 than 72 hours as a consequence of that violation. ~~Short–term detention may be~~
23 ~~imposed under this subdivision only if at the dispositional hearing the court~~
24 ~~explained those conditions to the juvenile and informed the juvenile of that possible~~

~~placement or if before the violation the juvenile has acknowledged in writing that he or she has read, or has had read to him or her, those conditions and that possible placement and that he or she understands those conditions and that possible placement.~~ A person who takes a juvenile into custody under this subdivision shall permit the juvenile to make a written or oral statement concerning the possible placement of the juvenile and the course of conduct for which the juvenile was taken into custody. A person designated by the court or the county department who is employed in a supervisory position by a person authorized to provide or providing intake or dispositional services under s. 938.067 or 938.069 shall review that statement and either approve the placement, modify the terms of the placement, or order the juvenile to be released from custody.

History: 1995 a. 77, 352; 1997 a. 27, 35, 205, 237, 239, 252; 1999 a. 9, 32, 103; 2001 a. 16, 69, 109; 2003 a. 50; 2005 a. 277, 344; 2007 a. 20, 97; 2009 a. 28, 79, 94, 103, 180, 185, 302; 2011 a. 181, 258; s. 13.92 (2) (i).

SECTION 59. 938.355 (6d) (c) 2g. of the statutes is created to read:

938.355 **(6d)** (c) 2g. The taking into custody and placement of a juvenile under subd. 1. or 2. is subject to any general written policies adopted by the court under s. 938.06 (1) and (2) and to any policies adopted by the county board relating to such taking into custody and placement.

SECTION 60. 938.355 (6d) (c) 2r. of the statutes is created to read:

938.355 **(6d)** (c) 2r. A juvenile who is subject to an order under s. 938.355, 938.357, or 938.365 that terminates as provided in s. 938.355 (4) (am) 4., 938.357 ((6) (a) 4., or 938.365 (5) (b) 4. may not be taken into custody under subd 1. or 2.

this section or s.

sub.

or s.

SECTION 61. 938.357 (1) (am) 2. (intro.) of the statutes is amended to read:

938.357 **(1)** (am) 2. (intro.) ~~Any~~ Except as provided in subd. 2r., any person receiving the notice under subd. 1. or notice of a specific placement under s. 938.355 (2) (b) 2. may obtain a hearing on the matter by filing an objection with the court

1 within 10 days after receipt of the notice. ~~Placements~~ Except as provided in subds.
2 2m. and 2r., placements may not be changed until 10 days after that notice is sent
3 to the court unless the parent, guardian, legal custodian, or Indian custodian, the
4 juvenile, if 12 or more years of age, and the juvenile's tribe, if the juvenile is an Indian
5 juvenile who has been removed from the home of his or her parent or Indian
6 custodian under s. 938.13 (4), (6), (6m), or (7), sign written waivers of objection~~,~~
7 ~~except that changes~~.

8 2m. Changes in placement that were authorized in the dispositional order may
9 be made immediately if notice is given as required under subd. 1. In addition, a
10 hearing is not required for placement changes authorized in the dispositional order
11 except when an objection filed by a person who received notice alleges that new
12 information is available that affects the advisability of the court's dispositional order.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258.

13 **SECTION 62.** 938.357 (1) (am) 2r. of the statutes is created to read:

14 938.357 **(1)** (am) 2r. If the proposed change in placement involves a juvenile
15 who is subject to a dispositional order that terminates as provided in sub. (6) (a) 4.
16 or s. 938.355 (4) (am) 4. or 938.365 (5) (b) 4., the person or agency primarily
17 responsible for implementing the dispositional order or the district attorney may
18 request a change in placement under subd. 1. only if the juvenile or the juvenile's
19 guardian on behalf of the juvenile consents to the change in placement. No hearing
20 is required for a change in placement described in this subdivision, and the juvenile's
21 placement may be changed at any time after notice of the proposed change in
22 placement is sent to the court.

23 **SECTION 63.** 938.357 (2m) (a) of the statutes is amended to read:

938.357 **(2m)** (a) *Request; information required.* ~~The~~ Except as provided in par. (bv), the juvenile, the parent, guardian, or legal custodian of the juvenile, any person or agency primarily bound by the dispositional order, other than the person or agency responsible for implementing the order, or, 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 may request a change in placement under this paragraph. The request shall contain the name and address of the new placement requested and shall state what new information is available that affects the advisability of the current placement. If the proposed change in placement would change the placement of a juvenile placed in the juvenile's home to a placement outside the home, the request shall also contain specific information showing that continued placement of the juvenile in the juvenile's home would be contrary to the welfare of the juvenile and, unless any of the circumstances under s. 938.355 (2d) (b) 1. to 4. applies, specific information showing that the agency primarily responsible for implementing the dispositional order has made reasonable efforts to prevent the removal of the juvenile from the home, while assuring that the juvenile's health and safety are the paramount concerns. The request shall be submitted to the court. The court may also propose a change in placement on its own motion.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258.

SECTION 64. 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~~ Except as provided in par. (bv), a hearing is not required if the requested or proposed change in placement does not involve a change in placement

1 of a juvenile placed in the juvenile's home to a placement outside the juvenile's home,
2 written waivers of objection to the proposed change in placement are signed by all
3 parties entitled to receive notice under this paragraph, and the court approves. If
4 a hearing is scheduled, not less than 3 days before the hearing the court shall notify
5 the juvenile, the parent, guardian, and legal custodian of the juvenile, any foster
6 parent or other physical custodian described in s. 48.62 (2) of the juvenile, all parties
7 who are bound by the dispositional order, and, if the juvenile is an Indian juvenile
8 who is in need of protection or services under s. 938.13 (4), (6), (6m), or (7), the Indian
9 juvenile's Indian custodian and tribe. A copy of the request or proposal for the change
10 in placement shall be attached to the notice. Subject to par. (br), if all of the parties
11 consent, the court may proceed immediately with the hearing.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258.

12 **SECTION 65.** 938.357 (2m) (bv) of the statutes is created to read:

13 938.357 **(2m)** (bv) If the proposed change in placement involves a juvenile who
14 is subject to a dispositional order that terminates as provided in sub. (6) (a) 4. or s.
15 938.355 (4) (am) 4. or 938.365 (5) (b) 4., only the juvenile or the juvenile's guardian
16 on behalf of the juvenile or a person or agency primarily bound by the dispositional
17 order may request a change in placement under par. (a). No hearing is required for
18 a change in placement described in this paragraph if written waivers of objection to
19 the proposed change in placement are signed by all parties that are bound by the
20 dispositional order. If a hearing is scheduled, the court may proceed immediately
21 with the hearing on the consent of the person who requested the change in placement
22 and all parties who are bound by the dispositional order.

23 **SECTION 66.** 938.357 (4g) (b) of the statutes is amended to read:

938.357 **(4g)** (b) The department may waive the time period within which an aftercare plan must be prepared and submitted under par. (a) if the department anticipates that the juvenile will remain in the juvenile correctional facility or secured residential care center for children and youth for a period exceeding 8 months or if the juvenile is subject to s. ~~48.366 or~~ 938.183. If the department waives that time period, the designated aftercare provider shall prepare the aftercare plan within 30 days after the date on which the department requests the aftercare plan.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 275, 352; 1997 a. 27, 35, 80, 205, 237; 1999 a. 9, 103; 2001 a. 16, 103, 109; 2005 a. 344; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258.

SECTION 67. 938.357 (6) of the statutes is renumbered 938.357 (6) (a) and amended to read:

938.357 **(6)** (a) No change in placement may extend the expiration date of the original order, except that if the change in placement is from a placement in the juvenile's home to a placement in a foster home, group home, or residential care center for children and youth or in the home of a relative who is not a parent, the court may extend the expiration date of the original order to the latest of the following dates, unless the court specifies a shorter period:

1. The date on which the juvenile attains 18 years of age~~, to the~~.

2. The date that is one year after the date ~~of~~ on which the change in placement order~~, or, if~~ is granted.

3. The date on which the juvenile ~~reaches~~ attains 19 years of age, if the juvenile is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before attaining 19 years of age~~, to the date on which the juvenile attains 19 years of age, whichever is later, or for a shorter period of time as specified by the court~~.

is granted

(b) If the change in placement is from a placement in a foster home, group home, or residential care center for children and youth or in the home of a relative to a placement in the juvenile's home and if the expiration date of the original order is more than one year after the date ~~of~~ on which the change in placement order, the court shall shorten the expiration date of the original order to the date that is one year after the date ~~of~~ on which the change in placement order is granted or to an earlier date as specified by the court.

SECTION 68. 938.357 (6) (a) 4. of the statutes is created to read:

938.357 **(6)** (a) 4. The date on which the juvenile ~~reaches~~ attains 21 years of age, if the juvenile is a full–time student at a secondary school or its vocational or technical equivalent, if an individualized education program under s. 115.787 is in effect for the juvenile, and if the juvenile, or the juvenile's guardian on behalf of the juvenile, agrees to termination of the order on that date.

SECTION 69. 938.365 (5) of the statutes is renumbered 938.365 (5) (a) and amended to read:

938.365 **(5)** (a) Except as provided in s. 938.368, an order under this section that continues the placement of a juvenile in his or her home or that extends an order under s. 938.34 (4d), (4h), (4m), or (4n) shall be for a specified length of time not to exceed one year after ~~its~~ the date ~~of entry~~ on which the order is granted.

(b) Except as provided in s. 938.368, an order under this section that continues the placement of a juvenile in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent shall be for a specified length of time not to exceed the latest of the following dates:

1. The date on which the juvenile attains 18 years of age~~,~~.

2. The date that is one year after the date on which the order is granted~~, or, if,~~

attains

3. The date on which the juvenile reaches 19 years of age, if the juvenile is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before attaining 19 years of age~~, the date on which the juvenile attains 19 years of age, whichever is later~~.

SECTION 70. 938.365 (5) (b) 4. of the statutes is created to read: attains

938.365 **(5)** (b) 4. The date on which the juvenile reaches 21 years of age, if the juvenile is a full–time student at a secondary school or its vocational or technical equivalent, if an individualized education program under s. 115.787 is in effect for the juvenile, and if the juvenile, or the juvenile's guardian on behalf of the juvenile, agrees to termination of the order on that date.

other than an order that terminates as provided in s. 938.355 (4)(am) 4., 938.357 (6)(a) 4., or 938.365 (5)(b) 4.

SECTION 71. 938.366 of the statutes is created to read:

938.366 Extended out–of–home care. **(1)** APPLICABILITY. This section applies to a person who is placed in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent under an order under s. 938.355, 938.357, or 938.365, who is a full–time student of a secondary school or its vocational or technical equivalent, and for whom an individualized education program under s. 115.787 is in effect.

(2) TRANSITION–TO–DISCHARGE HEARING. (a) Not less than 120 days before a person described in sub. (1) reaches 18 years of age or not less than 120 days before the order ~~under s. 938.355, 938.357, or 938.365~~ described in sub. (1) terminates, whichever is later, the agency primarily responsible for providing services to the person under the order shall request the person to indicate whether he or she wishes to be discharged from out–of–home care on termination of the order, wishes to continue in out–of–home care under an extension of the order, or wishes to continue in out–of–home care under a voluntary agreement under sub. (3).

described in sub. (1)

(b) 1. If the person described in sub. (1) indicates that he or she wishes to be discharged from out–of–home care on termination of the order ~~under s. 938.355, 938.357, or 938.365~~, the agency primarily responsible for providing services to the person under the order shall request the court to hold a transition–to–discharge hearing and shall cause notice of that request to be provided to that person, the parent, guardian, and legal custodian of that person, any foster parent or other physical custodian described in s. 48.62 (2) of that person, all parties who are bound by the dispositional order, and, if that person is an Indian juvenile who has been removed from the home of his or her parent or Indian custodian, that person's Indian custodian and tribe.

2. The court shall hold a hearing requested under subd. 1. within 30 days after receipt of the request. Not less than 3 days before the hearing, the agency requesting the hearing shall provide notice of the hearing to all persons who are entitled to receive notice of the request under subd. 1. A copy of the request shall be attached to the notice. If all parties consent, the court may proceed immediately with the hearing.

described in sub. (1)

3. At the hearing the court shall review with the person described in sub. (1) the options specified in par. (a) and shall advise the person that he or she may continue in out–of–home care under an extension of the order under s. 938.355, 938.357, or 938.365 or under a voluntary agreement under sub. (3).

4. If the court determines that the person understands that he or she may continue in out–of–home care, but wishes to be discharged from that care on termination of the order, the court shall order the agency primarily responsible for providing services to the person under the order to assist and support the person in developing a transition to independent living plan under s. 938.385 and shall advise

described in sub.(1)

the person that he or she may enter into a voluntary agreement under sub. (3) at any time before he or she reaches 21 years of age or graduates from secondary school or its vocational or technical equivalent, whichever occurs ~~first. If the~~ court determines that the person wishes to continue in out–of–home care under an extension of the order ~~under s. 938.355~~, the court shall schedule an extension hearing under s. 938.365. If the court determines that the person wishes to continue in out–of–home care under a voluntary agreement under sub. (3), the court shall order the agency primarily responsible for providing services to the person under the order to provide transition–to–independent living services for the person under a voluntary agreement under sub. (3). described in sub.(1)

(3) VOLUNTARY TRANSITION–TO–INDEPENDENT LIVING AGREEMENT. (a) On termination of an order ~~under s. 938.355, 938.357, or 938.365~~, a person described in sub. (1), or the person's guardian on behalf of the person, and the agency primarily responsible for providing services to the person under the order may enter into a transition–to–independent living agreement under which the person continues in out–of–home care until the person reaches 21 years of age, graduates from secondary school or its vocational or technical equivalent, or terminates the agreement as provided in par. (b), whichever occurs first, and the agency provides services to the person to assist him or her in transitioning to independent living.

(b) If at any time during the term of an agreement under par. (a) the person described in sub. (1) or his or her guardian indicates in writing that the person wishes to terminate the agreement, the agency shall request the court to hold a transition–to–discharge hearing, and the court shall hold such a hearing, as provided in sub. (2) (b), except that notice of the request and hearing need only be provided to that person, his or her guardian, the foster parent or other physical

custodian described in s. 48.62 (2) of that person, and all parties who are bound by the agreement.

(c) A person who terminates a voluntary agreement under this subsection may enter into a new voluntary agreement under this subsection at any time before he or she reaches 21 years of age or graduates from secondary school or its vocational equivalent, whichever occurs first.

(4) RULES. The department of children and families shall promulgate rules to implement this section. Those rules shall include rules permitting a foster home, group home, or residential care center for children and youth to provide care for persons who agree to continue in out–of–home care under an order under s. 938.355 or a voluntary agreement under sub. (3).

SECTION 72. 938.38 (4) (ar) of the statutes is renumbered 938.38 (4) (ar) (intro.) and amended to read:

938.38 **(4)** (ar) (intro.) A description of the services offered and any services provided in an effort to prevent the removal of the juvenile from his or her home, while assuring that the health and safety of the juvenile are the paramount concerns, and to achieve the goal of the permanency plan, except that the permanency plan is not required to include a description of the services offered or provided with respect to a parent of the juvenile to prevent the removal of the juvenile from the home or to achieve the permanency goal of returning the juvenile safely to his or her home if any of the following ~~apply~~:

1. Any of the circumstances under s. 938.355 (2d) (b) 1. to 4. ~~apply~~ to that parent.

History: 1995 a. 77, 275, 352; 1997 a. 35, 237, 296; 1999 a. 9; 2001 a. 59, 69, 109; 2003 a. 321; 2005 a. 156, 344, 448; 2007 a. 20, 97; 2009 a. 28, 79, 94, 185; 2011 a. 32, 181, 258; 2011 a. 260 s. 80; s. 13.92 (2) (i).

SECTION 73. 938.38 (4) (ar) 2. of the statutes is created to read:

938.38 **(4)** (ar) 2. The juvenile is subject to an order under s. 938.355, 938.357, or 938.365 that terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4. or has entered into a voluntary transition–to–independent living agreement under s. 938.366 (3).

SECTION 74. 938.38 (4) (fg) 6. of the statutes is created to read:

938.38 **(4)** (fg) 6. If the juvenile is subject to an order under s. 938.355, 938.357, or 938.365 that terminates as provided in s. 938.355 (4) (am) 4., 938.357 (6) (a) 4., or 938.365 (5) (b) 4. or has entered into a voluntary transition–to–independent living agreement under s. 938.366 (3), transition to independent living.

SECTION 75. 938.385 of the statutes is created to read:

938.385 Plan for transition to independent living. During the 90 days immediately before a juvenile who is placed in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent attains 18 years of age or, if the juvenile is placed in such a placement under an order under s. 938.355, 938.357, or 938.365 that terminates under s. 938.355 (4) (am) after the juvenile attains 18 years of age, during the 90 days immediately before the termination of the order, the agency primarily responsible for providing services to the juvenile under the order shall provide the juvenile with assistance and support in developing a plan for making the transition from out–of–home care to independent living. The transition plan shall be personalized at the direction of the juvenile, shall be as detailed as the juvenile directs, and shall include specific options for obtaining housing, health care, education, mentoring and continuing support services, and workforce support and employment services.

SECTION 76. 938.53 of the statutes is amended to read:

41-23

1 **938.53 Duration of control of department over delinquents.** Except as
2 provided under ~~ss. 48.366 and~~ s. 938.183, a juvenile adjudged delinquent who has
3 been placed under the supervision of the department under s. 938.183, 938.34 (4h),
4 (4m), or (4n), or 938.357 (4) shall be discharged as soon as the department determines
5 that there is a reasonable probability that departmental supervision is no longer
6 necessary for the rehabilitation and treatment of the juvenile or for the protection
7 of the public.

History: 1995 a. 77; 1997 a. 27; 2005 a. 344.

8 **SECTION 77.** 938.595 of the statutes is amended to read:

9 **938.595 Duration of control of county departments over delinquents.**
10 ~~Except as provided in s. 48.366, a~~ A juvenile who has been adjudged delinquent and
11 placed under the supervision of a county department under s. 938.34 (4d) or (4n)
12 shall be discharged as soon as the county department determines that there is a
13 reasonable probability that it is no longer necessary either for the rehabilitation and
14 treatment of the juvenile or for the protection of the public that the county
15 department retain supervision.

History: 1995 a. 77, 352.

16 **SECTION 78.** 938.78 (2) (d) 3. of the statutes is amended to read:

17 938.78 **(2)** (d) 3. Subject to an order under s. ~~48.366 or~~ 938.183 and placed in
18 a state prison under s. ~~48.366 (8) or~~ 938.183.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 230, 352; 1997 a. 205, 207, 283; 1999 a. 9; 2001 a. 38, 59, 109; 2003 a. 292, 321; 2005 a. 25, 277, 293, 344, 406, 434; 2007 a. 20 ss. 3834, 9121 (6) (a); 2007 a. 97; 2009 a. 79, 302, 338; 2011 a. 32, 270; 2013 a. 20.

19 **SECTION 79.** 938.992 (3) of the statutes is repealed.

20 **SECTION 80.** 946.42 (1) (a) 1. f. of the statutes is amended to read:

21 946.42 **(1)** (a) 1. f. Constructive custody of prisoners and juveniles subject to an
22 order under s. ~~48.366,~~ 938.183, 938.34 (4d), (4h), or (4m), or 938.357 (4) or (5) (e)
23 temporarily outside the institution whether for the purpose of work, school, medical

care, a leave granted under s. 303.068, a temporary leave or furlough granted to a juvenile, or otherwise.

History: 1971 c. 164 s. 89; 1975 c. 39; 1977 c. 173, 312, 354, 418; 1985 a. 320; 1987 a. 27, 238, 352; 1987 a. 403 ss. 238, 239, 256; 1989 a. 31; 1993 a. 16, 377, 385, 491; 1995 a. 27 ss. 7233m, 7233p, 9126 (19); 1995 a. 77, 154, 352, 390; 1997 a. 35, 283; 1999 a. 9; 2001 a. 109; 2005 a. 344, 434; 2007 a. 20 s. 9121 (6) (a); 2007 a. 97, 226.

SECTION 81. 946.42 (3) (d) of the statutes is repealed.

SECTION 82. 946.44 (2) (d) of the statutes is amended to read:

946.44 **(2)** (d) "Prisoner" includes a person who is under the supervision of the department of corrections under s. 938.34 (4h), who is placed in a juvenile correctional facility or a secured residential care center for children and youth under s. 938.183, 938.34 (4m), or 938.357 (4) or (5) (e), <u>or</u> who is placed in a Type 2 residential care center for children and youth under s. 938.34 (4d)~~, or who is subject to an order under s. 48.366~~.

History: 1977 c. 173; 1985 a. 320; 1987 a. 27, 236, 238, 403; 1989 a. 31, 107; 1993 a. 16, 377, 385, 486, 491; 1995 a. 27, 77, 352; 1999 a. 9; 2001 a. 109; 2005 a. 344.

SECTION 83. 946.45 (2) (d) of the statutes is amended to read:

946.45 **(2)** (d) "Prisoner" includes a person who is under the supervision of the department of corrections under s. 938.34 (4h), who is placed in a juvenile correctional facility or a secured residential care center for children and youth under s. 938.183, 938.34 (4m) or 938.357 (4) or (5) (e), <u>or</u> who is placed in a Type 2 residential care center for children and youth under s. 938.34 (4d)~~, or who is subject to an order under s. 48.366~~.

SECTION 84. 976.08 of the statutes is amended to read:

976.08 Additional applicability. In this chapter, "prisoner" includes any person subject to an order under s. ~~48.366 or~~ 938.183 who is confined to a Wisconsin state prison.

History: 1987 a. 27; 1995 a. 77; 2005 a. 344.
History: 2@Z7@Lam>
History: 1977 c. 173; 1985 a. 320; 1987 a. 27, 238; 1989 a. 31, 107; 1993 a. 16, 377, 385, 491; 1995 a. 27, 77, 352; 1999 a. 9; 2005 a. 344.

SECTION 9307. Initial applicability; Circuit Courts.

1 (1) OUT-OF-HOME CARE FOR CHILDREN WITH INDIVIDUALIZED EDUCATION PROGRAMS.
2 The renumbering and amendment of sections 48.355 (4), 48.357 (6), and 48.365 (5)
3 of the statutes, and the creation of sections 48.355 (4) (b) 4., 48.357 (6) (a) 4., and
4 48.365 (5) (b) 4. of the statutes first apply to an order of the court assigned to exercise
5 jurisdiction under chapter 48 of the statutes entered on the effective date of this
6 subsection.

7 (2) OUT-OF-HOME CARE FOR JUVENILES WITH INDIVIDUALIZED EDUCATION PROGRAMS.
8 The treatment of section 938.355 (4) (a) of the statutes, the renumbering and
9 amendment of sections 938.357 (6) and 938.365 (5) of the statutes, and the creation
10 of sections 938.355 (4) (am) 4., 938.357 (6) (a) 4., and 938.365 (5) (b) 4. of the statutes
11 first apply to an order of the court assigned to exercise jurisdiction under chapter 938
12 of the statutes granted on the effective date of this subsection.

13 (END)

Insert 44-12 B

d-note

2013–2014 DRAFTING INSERT
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LEGISLATIVE REFERENCE BUREAU

(INSERT 3–9)

SECTION 1. 48.02 (2) of the statutes is renumbered 48.02 (2) (intro.) and amended to read:

48.02 **(2)** (intro.) "Child", when used without further qualification, means a person who is less than 18 years of age, except ~~that for~~ as follows:

(a) For purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained 17 years of age.

History: 1971 c. 41 s. 12; 1971 c. 164; 1973 c. 263; 1977 c. 205, 299, 354, 418, 447, 449; 1979 c. 135, 300, 352; 1981 c. 81; 1983 a. 189, 447, 471; 1985 a. 176; 1987 a. 27, 285, 339; 1989 a. 31; Sup. Ct. Order, 151 Wis. 2d xxv (1989); 1989 a. 107; 1991 a. 39; 1993 a. 98, 375, 377, 385, 446, 491; 1995 a. 27 ss. 2423 to 2426p, 9126 (19), 9145 (1); 1995 a. 77, 275, 352, 448; 1997 a. 27, 104, 191, 292; 1999 a. 9; 2001 a. 16, 59, 69; 2005 a. 113, 232, 277, 344; 2005 a. 443 s. 265; 2007 a. 20; 2009 a. 28; 2009 a. 94 ss. 2 to 9, 231; 2009 a. 185 s. 86; 2009 a. 302, 334.

SECTION 2. 48.02 (2) (b) of the statutes is created to read:

48.02 **(2)** (b) For purposes of an order under s. 48.355, 48.357, or 48.365 that extends beyond the date on which a person reaches 18 years of age, a voluntary transition–to–independent–living agreement under s. 48.366 (3), placement of a person in out–of–home care under such an order or voluntary agreement, or maintenance of a person under s. 48.48 (17) (c) or 48.57 (3), "child" includes a person 18 years of age or over.

(END OF INSERT)

(INSERT ~~18–18~~ 18–13)

SECTION 3. 48.645 (1) (intro.) of the statutes is amended to read:

48.645 **(1)** DEFINITION. (intro.) In this section, "dependent child" means a child under the age of 18 or, if the child is a full–time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age, is under the age of 19, or, if the child is a full–time student at a secondary school or its vocational or technical equivalent for

whom an individualized educational program under s. 115.787 is in effect, is under 21 years of age, who meets all of the following conditions:

History: 2007 a. 20 ss. 894 to 903; Stats. 2007 s. 48.645; 2007 a. 97 s. 61; 2009 a. 28, 94, 180; 2011 a. 32; 2013 a. 20.

~~**SECTION 4.**~~ 48.685 (1) (am) of the statutes is amended to read:

48.685 **(1)** (am) "Client" means a ~~child~~ person who receives direct care or treatment services from an entity or from a caregiver specified in par. (ag) 1. am.

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28, 76, 94, 185; 2011 a. 32, 35, 87, 258; 2013 a. 20; s. 13.92 (2) (i).

~~**SECTION 5.** 48.685 (5) (bm) (intro.) of the statutes is amended to read:~~

~~48.685 **(5)** (bm) (intro.) For purposes of licensing a foster home for the placement of a ~~child~~ person on whose behalf foster care maintenance payments under s. 48.62 (4) will be provided or of providing subsidized guardianship payments to an interim caretaker under s. 48.623 (6), no person who has been convicted of any of the following offenses may be permitted to demonstrate that he or she has been rehabilitated:~~

History: 1997 a. 27, 237, 281; 1999 a. 9, 32, 56, 185, 186; 2001 a. 109; 2003 a. 321; 2005 a. 149, 184, 277; 2007 a. 20 ss. 1346 to 1358, 9121 (6) (a); 2007 a. 97, 111, 116, 130, 153; 2009 a. 28, 76, 94, 185; 2011 a. 32, 35, 87, 258; 2013 a. 20; s. 13.92 (2) (i).

(END OF INSERT)

22-20C

(INSERT ~~22-20~~)

SECTION 6. 938.02 (10m) of the statutes is renumbered 938.02 (10m) (intro.) and amended to read:

938.02 **(10m)** (intro.) "Juvenile", when used without further qualification, means a person who is less than 18 years of age, except ~~that for~~ as follows:

(a) For purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "juvenile" does not include a person who has attained 17 years of age.

History: 1995 a. 77, 216, 352, 448; 1997 a. 27, 35, 181, 191; 1999 a. 9, 162; 2001 a. 16, 59; 2003 a. 33, 284; 2005 a. 232, 344, 387; 2005 a. 443 s. 265; 2007 a. 20 ss. 3780 to 3782, 9121 (6) (a); 2009 a. 28, 94, 302, 334; 2011 a. 32, 258; 2011 a. 260 s. 80.

SECTION 7. 938.02 (10m) (b) of the statutes is created to read:

938.02 **(10m)** (b) For purposes of an order under s. 938.355, 938.357, or 938.365 that extends beyond the date on which a person attains 18 years of age, a voluntary transition–to–independent–living agreement under s. 938.366 (3), placement of a person in out–of–home care under such an order or voluntary agreement, or maintenance of a person under s. ~~938.48 (4m) or~~ 938.57 (3), "juvenile" includes a person 18 years of age or over.

(END OF INSERT)

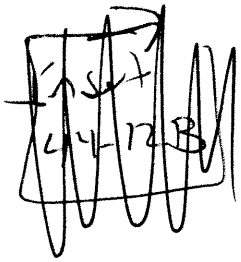
(INSERT 41–23)

SECTION 8. 938.44 of the statutes is amended to read:

938.44 Jurisdiction over persons 17 or older. The court has jurisdiction over persons 17 years of age or older as provided under ss. 938.355 (4), 938.357 (6), 938.365 (5), and 938.45 and as otherwise specified in this chapter.

History: 1995 a. 77; 2005 a. 344.

(END OF INSERT)



(INSERT 3–1B)

SECTION 1. 19.32 (1m) of the statutes is amended to read:

19.32 **(1m)** "Person authorized by the individual" means the parent, guardian, as defined in s. 48.02 (8), or legal custodian, as defined in s. 48.02 (11), of a child, as defined in s. 48.02 (2) (intro.), the guardian of an individual adjudicated incompetent in this state, the personal representative or spouse of an individual who is deceased, or any person authorized, in writing, by the individual to exercise the rights granted under this section.

History: 1981 c. 335; 1985 a. 26, 29, 332; 1987 a. 305; 1991 a. 39, 1991 a. 269 ss. 26pd, 33b; 1993 a. 215, 263, 491; 1995 a. 158; 1997 a. 79, 94; 1999 a. 9; 2001 a. 16; 2003 a. 47; 2005 a. 387; 2007 a. 20.

(END OF INSERT)

(INSERT 14–11B)

as created by 2013 Wisconsin Act 20

SECTION 2. 48.481 (2) of the statutes is amended to read:

48.481 **(2)** TRANSITION TO INDEPENDENT LIVING. The department shall distribute at least $231,700 in each fiscal year to counties for the purpose of assisting individuals ~~who attain the age of 18 while residing~~ 18 years of age or over who reside in a foster home, group home, or residential care center for children and youth or in the home of a relative other than a parent to make the transition from out–of–home care to independent living. No county may use funds provided under this subsection to replace funds previously used by the county for this purpose.

History: 1999 a. 9, 149; 2003 a. 33; 2007 a. 20 ss. 1117 to 1121; Stats. 2007 s. 48.481; 2009 a. 28; 2013 a. 20.

(END OF INSERT)

(INSERT 22–20A)

SECTION 3. 767.405 (8) (b) 1. of the statutes is amended to read:

767.405 **(8)** (b) 1. That a party engaged in abuse, as defined in s. 813.122 (1) (a), of the child, as defined in s. ~~48.02 (2)~~ 813.122 (1) (b).

1 **SECTION 4.** 767.405 (10) (e) 1. of the statutes is amended to read:

2 767.405 **(10)** (e) 1. There is evidence that a party engaged in abuse, as defined

3 in s. 813.122 (1) (a), of the child, as defined in s. ~~48.02 (2)~~ 813.122 (1) (b).

History: 1987 a. 355; 1989 a. 56; 1991 a. 269; Sup. Ct. Order No. 93–03, 179 Wis. 2d xv; 1995 a. 275, 343; 1999 a. 9; 2001 a. 61, 109; 2003 a. 130; 2005 a. 443 ss. 8, 56, 57, 181; Stats. 2005 s. 767.405; 2007 a. 187; 2009 a. 187.

4 **SECTION 5.** 767.41 (2) (b) 2. c. of the statutes is amended to read:

5 767.41 **(2)** (b) 2. c. The parties will not be able to cooperate in the future decision

6 making required under an award of joint legal custody. In making this finding the

7 court shall consider, along with any other pertinent items, any reasons offered by a

8 party objecting to joint legal custody. Evidence that either party engaged in abuse,

9 as defined in s. 813.122 (1) (a), of the child, as defined in s. ~~48.02 (2)~~ 813.122 (1) (b),

10 or evidence of interspousal battery, as described under s. 940.19 or 940.20 (1m), or

11 domestic abuse, as defined in s. 813.12 (1) (am), creates a rebuttable presumption

12 that the parties will not be able to cooperate in the future decision making required.

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9; 2001 a. 109; 2003 a. 130; 2005 a. 101, 174, 264; 2005 a. 443 ss. 29, 94 to 98; Stats. 2005 s. 767.41; 2005 a. 471 ss. 1 to 5; 2007 a. 20; 2007 a. 96 ss. 141, 142; 2007 a. 97, 187; 2009 a. 28, 79.

13 **SECTION 6.** 767.41 (5) (am) 12. of the statutes is amended to read:

14 767.41 **(5)** (am) 12. Whether there is evidence that a party engaged in abuse,

15 as defined in s. 813.122 (1) (a), of the child, as defined in s. ~~48.02 (2)~~ 813.122 (1) (b).

History: 1971 c. 149, 157, 211; 1975 c. 39, 122, 200, 283; 1977 c. 105, 418; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196; Stats. 1979 s. 767.24; 1981 c. 391; 1985 a. 70, 176; 1987 a. 332 s. 64; 1987 a. 355, 364, 383, 403; 1989 a. 56 s. 259; 1989 a. 359; 1991 a. 32; 1993 a. 213, 446, 481; 1995 a. 77, 100, 275, 289, 343, 375; 1997 a. 35, 191; 1999 a. 9; 2001 a. 109; 2003 a. 130; 2005 a. 101, 174, 264; 2005 a. 443 ss. 29, 94 to 98; Stats. 2005 s. 767.41; 2005 a. 471 ss. 1 to 5; 2007 a. 20; 2007 a. 96 ss. 141, 142; 2007 a. 97, 187; 2009 a. 28, 79.

(INSERT 3–1)

(INSERT 44–12B)

16 **SECTION 7.** 990.01 (20) of the statutes is renumbered 990.01 (20) (intro.) and

17 amended to read:

18 990.01 **(20)** MINOR. (intro.) "Minor" means a person who has not attained the age of

19 18 years, except ~~that for~~ as follows:

1 (a) For purposes of investigating or prosecuting a person who is alleged to have
2 violated a state or federal criminal law or any civil law or municipal ordinance,
3 "minor" does not include a person who has attained the age of 17 years.

History: 1971 c. 164 ss. 80, 91; 1971 c. 213 s. 5; Sup. Ct. Order, 67 Wis. 2d 784; 1977 c. 305; 1979 c. 169; 1981 c. 291, 391; 1983 a. 447; 1985 a. 65, 182, 332; Sup. Ct. Order, 141 Wis. 2d xiii (1987); 1987 a. 399; 1989 a. 56, 278; 1991 a. 39; 1993 a. 486; 1995 a. 27 ss. 7294, 7295, 9126 (19); 1995 a. 77, 352; 1997 a. 252, 306; 1999 a. 22, 85; 2001 a. 102; 2003 a. 110; 2005 a. 441; 2005 a. 443 s. 265; 2007 a. 11; 2007 a. 20 s. 9121 (6) (a); 2011 a. 32.

4 **SECTION 8.** 990.01 (20) (b) of the statutes is created to read:

5 990.01 **(20)** (b) For purposes of an order under s. 48.355, 48.357, 48.365,
6 938.355, 938.357, or 938.365 that extends beyond the date on which a person reaches
7 18 years of age, a voluntary transition–to–independent living agreement under s.
8 48.366 (3) or 938.366 (3), placement of a person in out–of–home care under such an
9 order or voluntary agreement, or maintenance of a person under s. 48.48 (17) (c),
10 48.57 (3), or 938.57 (3), "minor" includes a person 18 years of age or over.

(INSERT 3-1)

INS 22 -20 B

Section #. 905.045 (1) (a) of the statutes is amended to read:

813.122(1)(b)

905.045 **(1)** (a) "Abusive conduct" means abuse, as defined in s. 813.122 (1) (a), of a child, as defined in s. ~~48.02 (2)~~, interspousal battery, as described under s. 940.19 or 940.20 (1m), domestic abuse, as defined in s. 813.12 (1) (am), or sexual assault under s. 940.225.

History: 2001 a. 109.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2915/P1dn
GMM:...

– date –

Sara:

In reviewing this draft, please note all of the following:

1. Because the draft relates to extended out–of–home care, the logical place in ch. 48 to place the provision is following s. 48.365 relating to extensions of dispositional orders. Under current law, however, s. 48.366 is occupied by extended court jurisdiction, which is a holdover from when both child welfare and juvenile justice were under the Children's Code. Fortunately, no child has been placed in the extended jurisdiction program since June 30, 1996, so it is safe to repeal extended court jurisdiction and replace it with extended out–of–home care. Accordingly, the draft deletes all obsolete references to s. 48.366, 2011 stats.

2. There is no need to address child support in this draft because youths in extended out–of–home care will all be 18 years of age or over and s. 49.345 (2) and (14) (b) already provide that a parent is liable only for his or her *minor* child.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266–9738
E–mail: gordon.malaise@legis.wisconsin.gov

(A) 3. The definition of "child" in s. 115.76 (3) permits a child with an IEP who turns 21 during a school term to remain in the program until the end of the school term. Do you want extended out-of-home care under chs. 48 and 938 to similarly extend to the end of the school term?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2915/P1dn
GMM:cjs:rs

September 24, 2013

Sara:

In reviewing this draft, please note all of the following:

1. Because the draft relates to extended out–of–home care, the logical place in ch. 48 to place the provision is following s. 48.365 relating to extensions of dispositional orders. Under current law, however, s. 48.366 is occupied by extended court jurisdiction, which is a holdover from when both child welfare and juvenile justice were under the Children's Code. Fortunately, no child has been placed in the extended jurisdiction program since June 30, 1996, so it is safe to repeal extended court jurisdiction and replace it with extended out–of–home care. Accordingly, the draft deletes all obsolete references to s. 48.366, 2011 stats.

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3. The definition of "child" in s. 115.76 (3) permits a child with an IEP who turns 21 during a school term to remain in the program until the end of the school term. Do you want extended out–of–home care under chs. 48 and 938 to similarly extend to the end of the school term?

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Malaise, Gordon

From: Henderson, Wendy P - DCF <Wendy.Henderson@wisconsin.gov>
Sent: Tuesday, September 17, 2013 10:53 AM
To: Malaise, Gordon
Subject: One oversight in the FC Extension bill

Gordon,
We forgot to add that we would need the extended youth to qualify as "clients" for the purposes of the background check section (48.685 (am). One way to do that would be to just add
"Client" means a child or young adult served under this chapter who receives...

If it isn't too late and you are able to make that change, or something similar that reaches the same goal, that would be appreciated.
Thanks,
Wendy

Wendy Henderson
Director, Office of Youth Services
Division of Safety and Permanence
Department of Children and Families

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Malaise, Gordon

From: Buschman, Sara - DCF <Sara.Buschman@wisconsin.gov>
Sent: Friday, October 04, 2013 9:52 AM
To: Malaise, Gordon
Cc: Liedl, Kimberly - GOV
Subject: DCF comments re: LRB 2915/P1

Gordon,

Below please find the Department's comments on LRB 2915. If you have any questions, please let either I, or Kimber Liedl, know. Also, Kimber is now DCF's leg liaison so you can talk to her about any of our items in drafting.

Sara

Sara L. Buschman
Assistant Deputy Secretary
Department of Children and Families

201 East Washington Avenue, Madison, WI 53703
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Email: sara.buschman@wisconsin.gov

Drafter's Notes:
Notes 1 and 2: we concur.
Note 3: No, we do not want OHC to extend to the end of the school year in which the youth turns 21 because we want to align the statute with IV-E eligibility, which terminates at age 21. Based on discussions between DPI and DCF, we are aware of the different timeline under IEP status (i.e., it extends to the end of the school year that a youth turns 21); but concluded that we need to base OHC eligibility on the IV-E eligibility timeline.

Statutory Provisions:

1. When the bill references the placements that are made before the 18th birthday, or references placement types by name at all (ex. P. 5 line 13, but this happens throughout) either add more placement types to cover the full range of placements (including, for example, Supervised Independent Living) or use more generic language like out of home care.

2. Maintaining payment for tribal youth: the changes to s. 48.645 appear to allow payment for a tribal youth age 19-21 that a county already pays under these provisions for tribal youth age 18-19. Is this correct? Do there need to be any other changes to allow payment for a tribal youth?

3. On p. 3 in the analysis the last sentence of the first paragraph appears to be redundant.

4. Section 4, Page 4, lines 22-25 – p. 5, lines1-3, s. 48.02(2)(b).
   a) *For the drafter:* There may be implications for changing the definition of child to expressly include extended care youth. (See my comments in 3. b) and 4.b) below). We currently don't extend the definition of child in s. 48 02 for 18-19 year olds who are now continued in care. Why are we doing this now? Is this considered clean up? Also, will this definition include youth under an order or voluntary agreement even if they left the program without a dismissal of the order or the termination of the agreement and should it?
   b) For s. 48.57(3) and 48.48(17)(3)(c) please include a reference to Supervised Independent Living so that funding continues for youth in SIL?

5. P. 6, lines 6-11, s. 6, s. 48.355(4)(b)4. This provision seems to say that the order will only terminate when the child reaches 21 years of age if the child or child's guardian agrees to the termination. What if they don't want to terminate it? We could change this to say something to like: ...if the child/guardian agreed to the termination at age 21 pursuant to the terms of the court order or a transition to independent living agreement. See p. 10, lines 4-8, s. 13, s. 48.357(6)(a)4. and p.11, lines 1-5, s. 15, s. 48.365(5)(b)4 for similar language that may need revision.

6. Section 8, p. 6, lines 21-p. 7, lines1-4, 48.357(1)(am)2r. [COP filed by a agency or DA or Corporation Counsel]
a) Note that this language would not apply to a youth under a transition agreement, so under a transition agreement there would be no way to force a change of placement. Also, is it correct that the youth can move even before the notice is filed, despite the last clause of the last sentence (which says the "child's placement may be changed at any time after notice of the proposed change in placement is sent to the court"). What if the child is in a foster placement and the foster parent wants the youth removed sooner? Do we intend that that would be done as an emergency COP? If so, we should amend the emergency placement provision in s. 48.357(2) to reference changes in placement under 48.357(1)(am)2r.

   b) Who should get notice of a COP petition for these youth? S. 48.357(1)(am), which appears to apply to these COPs under s. (1)(am)2r., requires notice to a parent, foster parent or physical custodian, CASA or Indian custodian. Do we intend that the notice for a COP be given to a parent per current s. 48.357(1)(am)1? I'm thinking that there is no CASA or Indian custodian for someone over 18, right? Also, under current (1)(am)g. do we intend to require compliance with foster care placement preferences for an Indian child who is over age 18? Is a youth over age 18 considered a child for these provisions in s. 48.357? The federal ICWA specifically defines a child as someone under age 18 (25 USC 1903(4).

7. 4. P. 8, lines 20-25 – p. 9 lines 1-5, s. 11, s. 48.357(2m)(bv) – [COP filed by a child or child's guardian, or agency]

   a)Who are the parties who can object to COP? The child and the guardian? The agency? Question for drafter – should the parties expressly be defined?

   b) It appears that an amendment to 48.357(2v)(a) may be needed if we don't want the requirements listed under 48.357(2v)(a). to apply to age 19-21 OHC COPSs. These include(2v)(a)2. (court approves of agency recommendation for placement or gave recommendation bona fide consideration), 2m. (court finds diligent efforts to place child with sibling group), and 3. (no reasonable efforts WRT parents required).

8. Pg. 10 lines 21-25: need to continue to indicate the end point is age 19 or graduation whichever comes first. There is confusion across the state on this and it is being interpreted in ways not intended. Page 17 Lines 5-15 are a clean example of how this should be written throughout. This comment is also relevant for pages: Pg. 16 Lines 12-19; pg 16 Lines 21-25; pg. 20 lines 11-17;

9. Pg. 11 Line 1 after 21 years of age...add "or the date the child graduates."

10. P. 11, beginning at line 14 – this section needs to be redrafted. As currently drafted, it would require a hearing if a 20-year-old on an extended order leaves care. The intent is to have this hearing at the time the eligible youth is deciding to leave care, despite eligibility to stay (at 17, turning 18 or 18 turning 19).

11. P. 12, lines 17-25, s. 16, s. 48.366(2)(b)2. Who are the parties for the extended OHC hearing – should they expressly be defined for clarity – the youth and youth's guardian? The parents, legal custodian, Indian custodian, OHC provider?

12. P. 12 line 24: clarify that the youth can only return if he is attending school full time and on an Individualized Education Plan.

13. P. 12 line 19 – The clause about the court ordering the agency to provide services is unnecessary because the agency is already required to provide services.

14. P. 12 line 24: clarify that the youth can only return if he is on an Individualized Education Plan.

15. Pg. 13 line 12 after care until...add "date the" person reaches...

16. P. 13, lines 24-25 – p.14, lines 1-5, s. 16, s. 48.366 the bill should be changed to allow DCF via admin. rules in 48.366(4) to include reasonable limitations or circumstances to allow re-entry.

17. P. 14, lines 6-9, s. 16, s. 48.366(4) we ask that the rulemaking authority be emergency rulemaking authority.

18. Pg. 15 line 6-7: remove the requirement for permanency planning for the voluntary transition-to-independent living agreements.

19. P.15 lines 10 – 12: other example of the placement types referenced above in 1.

20. P. 16 line 5 – remove "to counties".

21. P. 16, lines 4-10, s. 23, s. 48.481(2) Reference to funding for transition to IL for youth in OHC also reference youth in Supervised Independent Living.

22. P. 16 line 6: revert back to the old language "who attain the age of 18 while residing", and change the placement language. The change that was made would exclude kids who have aged out, which is a population we want to be able to serve.

23. Pg. 17 lines 21-23 do we want to limit placements in foster home and group homes to only those they were residing in prior to their 18th birthday? It seems to me that we do not want to limit this in this way.

24. P. 20, lines 6-10, s. 31, s. 48.64(4)(d). Remove the reference to s. 48.357 as a procedure that allows a provider to appeal to DHA or the court under s. 48.64. The reference to decisions under s. 48.357 for changes in placement for ages 19-21 may be used to argue that changes in placement under s. 48.357 for under age 19 can also be appealed under s. 48.64. The procedures are distinct and an action under 48.357 cannot be appealed under s. 48.64 as well.

25. Pg. 26 lines 23 suggest adding 4. The date the child graduates.

26. Pg. 27 line6 after date add "or the date the child graduates whichever occurs first."

27. All of these comments would then be mirrored in the 938 sections.

28. Lastly we need to add a provision to modify s. 48.685(1)(am) Wis. Stats. to indicate that a youth receiving any IL services should be considered a "client resident" and then be given rule making authority to update Ch. DHS 12.

Malaise, Gordon

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Tuesday, October 08, 2013 4:44 PM
To: Malaise, Gordon
Cc: Buschman, Sara - DCF
Subject: FW: UPDATE: Comments on Foster Care Extension Bill: LRB 2915/P1

Gordon, here are some additional comments on the foster care extension draft.

- a modification under 48.38(2) ensuring that youth in a Supervised Independent Living placement are also covered,
- under 48.38(4)(ar) adding something to the effect that youth who continue in out-of-home care after age 18 do not require efforts/services made to the parents for reunification,
- 48.38 (5) & (5m) that the review/hearing is focused on the child's successful transition to independence and the plan developed under 48.385.

Thanks,
Kimber

Kimberly Liedl
Legislative Liaison
Department of Children and Families

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