

2013 DRAFTING REQUEST

Bill

Received: **8/28/2013** Received By: **gmalaise**
Wanted: **As time permits** Same as LRB:
For: **Children and Families 261-6588** 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:

Voluntary placements in shelter care facilities

Instructions:

See attached--permit voluntary placements in shelter care facilities

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 9/4/2013	scalvin 9/12/2013	jmurphy 9/12/2013	_____			
/1	gmalaise 10/4/2013			_____	mbarman 9/12/2013		State S&L
/2	gmalaise 11/25/2013	scalvin 10/8/2013	jfrantze 10/9/2013	_____	sbasford 10/9/2013		State S&L
/3	gmalaise	scalvin	rschlue	_____	srose		State

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	1/14/2014	11/26/2013	11/26/2013	_____	11/26/2013		S&L
/4		scalvin 1/16/2014	rschluet 1/16/2014	_____	srose 1/16/2014	mbarman 1/16/2014	State S&L

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→ At Intro.

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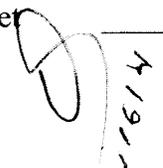
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Handwritten signature and date: 11/26/13

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/?	gmalaise	/1 sac 09/12/2013	gm 9/12	AMR self			

FE Sent For:

<END>

Malaise, Gordon

From: Buschman, Sara - DCF <Sara.Buschman@wisconsin.gov>
Sent: Thursday, August 22, 2013 7:12 PM
To: Malaise, Gordon
Subject: DCF drafting request

Gordon,

DCF would like to make a drafting request to change statues related to shelter care facilities. Please find a description below:

Issue:

Under current law children may be placed in shelter care facilities only if there is a pending court hearing or if the child is under a court order for shelter placement. Shelter care placement is not an option for short-term respite care services in instances where children need to be taken out of their current living situation for reasons other than a court order (i.e., emergency placement, respite care).

Suggested Change:

Amend s. 48.63 to allow voluntary agreements to be used for placements in a shelter care, without a court order, for those shelters where the Department has approved an exception. This amendment would authorize the Department to make an exception to current law so that licensed shelter care facilities could provide respite care services, without a court order, to a child for a short time, not to exceed 20 days, under a voluntary agreement signed by either the parent or the county. This exception would need to be authorized under both chapters 48 and 938 of the statutes. The amendment would also specify that the Department would be responsible for reviewing requests for exceptions on a case-by-case basis and grant the exception based on the needs of the child, the services provided by the shelter and the needs of the county or region.

Not sure if this needs to be included in the draft but upon legislative change, the administrative rule would require amendment in accordance with the new statute (see Administrative Rule DCF 59.05 (1m), which requires a court order for placement in a shelter care).

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



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-30277

GMM:1:.....

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IN 914

Pass 9/12/10

gen cat

AN ACT ...; **relating to:** placement of a child in a shelter care facility under a voluntary agreement.

2

Analysis by the Legislative Reference Bureau

Under current law, a child who has been taken into custody under the Children's Code or the Juvenile Justice Code, who has been ordered by the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code to be held in temporary physical custody, or who is in need of a transitional placement when emergency conditions necessitate an immediate change in placement may be held in a shelter care facility, which is a nonsecure place of temporary care and physical custody for children licensed by the Department of Children and Families (DCF).

This bill permits a child to be placed in a shelter care facility under a voluntary agreement for not more than 20 days. Specifically, under the bill, a child's parent, guardian, or Indian custodian, or the subunit of DCF that administers child welfare services in Milwaukee County, any other subunit of DCF that has placement and care responsibility for a child, the Department of Corrections (DOC), a county department of human services or social services (county department), or a child welfare agency licensed to place children in shelter care facilities, may request the subunit of DCF responsible for the licensing and supervision of shelter care facilities to permit the placement of a child in a shelter care facility under a voluntary agreement. That subunit must review such a request on a case-by-case basis based on the needs of the child, the services provided by the shelter care facility, and the needs of the person making the request.

If the request is approved, the child's parent, guardian, or Indian custodian, or the subunit of DCF that administers child welfare services in Milwaukee County,

any other subunit of DCF that has placement and care responsibility for the child, DOC, a county department, or a child welfare agency licensed to place children in shelter care facilities, may place the child or negotiate or act as intermediary for the placement of the child in the shelter care facility. A shelter care facility placement under a voluntary agreement may not exceed 20 days from the date on which the child was removed from his or her home or out-of-home placement under the voluntary agreement and may not be extended.

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

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

✓

1 SECTION 1. 48.028 (5) (a) of the statutes is amended to read:

2 48.028 (5) (a) *Out-of-home care placement.* A voluntary consent by a parent
3 or Indian custodian to an out-of-home care placement of an Indian child under s.
4 48.63 (1) (a) or (b) 2. or (5) (b) or a delegation of powers by a parent regarding the care
5 and custody of an Indian child under s. 48.979 is not valid unless the consent or
6 delegation is executed in writing, recorded before a judge, and accompanied by a
7 written certification by the judge that the terms and consequences of the consent or
8 delegation were fully explained in detail to and were fully understood by the parent
9 or Indian custodian. The judge shall also certify that the parent or Indian custodian
10 fully understood the explanation in English or that the explanation was interpreted
11 into a language that the parent or Indian custodian understood. Any consent or
12 delegation of powers given under this paragraph prior to or within 10 days after the
13 birth of the Indian child is not valid. A parent or Indian custodian who has executed
14 a consent or delegation of powers under this paragraph may withdraw the consent
15 or delegation for any reason at any time, and the Indian child shall be returned to
16 the parent or Indian custodian. A parent or Indian custodian who has executed a

1 consent or delegation of powers under this paragraph may also move to invalidate
2 the out-of-home care placement or delegation of powers under sub. (6).

3 **History:** 1981 c. 81; 2009 a. 94; 2011 a. 87. *

SECTION 2. 48.38 (2) (d) of the statutes is amended to read:

4 48.38 (2) (d) The child was placed under a voluntary agreement between the
5 agency and the child's parent under s. 48.63 (1) (a) or (b) 2. or (5) (b).

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.).

6 **SECTION 3.** 48.38 (4) (d) 1. of the statutes is amended to read:

7 48.38 (4) (d) 1. That the placement is made pursuant to a voluntary agreement
8 under s. 48.63 (1) (a).

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.).

9 **SECTION 4.** 48.57 (3n) (am) 6. c. of the statutes is amended to read:

10 48.57 (3n) (am) 6. c. The date on which the child is placed outside the long-term
11 kinship care relative's home under a court order or under a voluntary agreement
12 under s. 48.63 (1) (a) or (b) 2. or (5) (b).

History: 1977 c. 29; 1977 c. 83 s. 26; 1977 c. 271, 354, 418, 447, 449; 1979 c. 34, 221; 1981 c. 329; 1983 a. 189 s. 329 (17); 1983 a. 447; 1985 a. 176; 1987 a. 339; 1993 a. 385, 395, 446, 491; 1995 a. 27 ss. 2575 to 2579m, 9126 (19); 1995 a. 77, 289, 443; 1997 a. 3, 27, 35, 36, 41, 105, 237, 252, 292; 1999 a. 9, 103, 133, 162; 2001 a. 16 ss. 1629, 4036-4038, 4040, 4042, 4043; 2001 a. 38, 59, 69, 109; 2005 a. 25, 232, 293; 2007 a. 20; 2009 a. 28, 71, 94, 180; 2011 a. 32; 2013 a. 20.

13 **SECTION 5.** 48.58 (1) of the statutes is renumbered 48.58.

14 **SECTION 6.** 48.58 (5) of the statutes is created to read:

15 **48.58 (5)** Provide temporary shelter care for children place in the county
16 children's home under a voluntary agreement under s. 48.63 (1) (b) 2. ✓

17 **SECTION 7.** 48.615 (1) (b) of the statutes is amended to read:

18 48.615 (1) (b) Except as provided in par. (e), before the department may issue
19 a license under s. 48.60 (1) to a child welfare agency that places children in licensed
20 foster homes, licensed group homes, shelter care facilities approved under s. 48.63

placed

1 (1)(b) 1., and in the homes of guardians under s. 48.977 (2), the child welfare agency
2 must pay to the department a biennial fee of \$254.10.

3 **History:** 1991 a. 39; 1993 a. 446; 1995 a. 27; 1997 a. 27; 2001 a. 59; 2005 a. 25; 2009 a. 28; 2011 a. 209.

3 **SECTION 8.** 48.63 (1) of the statutes is renumbered 48.63 (1) (a) and amended
4 to read:

5 48.63 (1) (a) Acting under court order or voluntary agreement, the child's
6 parent, guardian, or Indian custodian, or the department, the department of
7 corrections, a county department under s. 46.215, 46.22, or 46.23, or a child welfare
8 agency licensed to place children in foster homes or group homes may place a child
9 or negotiate or act as intermediary for the placement of a child in a foster home or
10 group home. Voluntary agreements under this subsection paragraph may not be
11 used for placements in facilities other than foster homes or group homes and may not
12 be extended. A foster home placement under a voluntary agreement may not exceed
13 180 days from the date on which the child was removed from the home under the
14 voluntary agreement. A group home placement under a voluntary agreement may
15 not exceed 15 days from the date on which the child was removed from the home
16 under the voluntary agreement, except as provided in sub. (5). These periods do not
17 apply to placements made under s. 48.345, 938.183, 938.34, or 938.345.

18 (c) Voluntary agreements may be made only under this subsection and par. (a)
19 or (b) 2. or sub. (5) (b) and, shall be in writing, and shall specifically state that the
20 agreement may be terminated at any time by the parent, guardian, or Indian
21 custodian or by the child if the child's consent to the agreement is required. In the
22 case of an Indian child who is placed under this subsection and par. (a) or (b) 2. by
23 the voluntary agreement of the Indian child's parent or Indian custodian, the
24 voluntary consent of the parent or Indian custodian to the placement shall be given

1 as provided in s. 48.028 (5) (a). The child's consent to the agreement is required
2 whenever the child is 12 years of age or older.

3 (d) If a county department, the department, or the department of corrections
4 places a child or negotiates or acts as intermediary for the placement of a child under
5 ~~this subsection and par. (a) or (b) 2.~~, the voluntary agreement shall also specifically
6 state that the county department, department, or department of corrections has
7 placement and care responsibility for the child as required under 42 USC 672 (a) (2)
8 and has primary responsibility for providing services to the child.

History: 1977 c. 354, 449; 1979 c. 300; 1981 c. 81; 1983 a. 351, 399; 1985 a. 176; 1989 a. 31, 107; 1993 a. 446; 1995 a. 27 ss. 2594, 9126 (19); 1995 a. 77; 2001 a. 69, 109; 2007 a. 20, 186, 199; 2009 a. 28, 79, 94, 339; 2011 a. 87; 181, 258.

9 **SECTION 9.** 48.63 (1) (b) of the statutes is created to read:

10 48.63 (1) (b) 1. A child's parent, guardian, or Indian custodian, or the subunit
11 of the department that administers child welfare services in a county having a
12 population of 750,000 or more, any other subunit of the department that has
13 placement and care responsibility for a child, the department of corrections, a county
14 department under s. 46.215, 46.22, or 46.23, or a child welfare agency licensed to
15 place children in shelter care facilities, may request the subunit of the department
16 responsible for the licensing and supervision of shelter care facilities to permit the
17 placement of a child in a shelter care facility under a voluntary agreement. That
18 subunit shall review such a request on a case-by-case basis based on the needs of
19 the child, the services provided by the shelter care facility, and the needs of the person
20 making the request.

21 2. If a request under subd. 1. is approved, the child's parent, guardian, or Indian
22 custodian, or the subunit of the department that administers child welfare services
23 in a county having a population of 750,000 or more, any other subunit of the
24 department that has placement and care responsibility for the child, the department

1 of corrections, a county department under s. 46.215, 46.22, or 46.23, or a child welfare
2 agency licensed to place children in shelter care facilities, may place the child or
3 negotiate or act as intermediary for the placement of the child in the shelter care
4 facility. A voluntary agreement under this subdivision may not be used for
5 placement in a facility other than the approved shelter care facility. A shelter care
6 facility placement under a voluntary agreement may not exceed 20 days from the
7 date on which the child was removed from his or her home or out-of-home placement
8 under the voluntary agreement and may not be extended.

9 **SECTION 10.** 48.64 (1) of the statutes is amended to read:

10 48.64 (1) DEFINITION. In this section, "agency" means the department, the
11 department of corrections, a county department under s. 46.215, 46.22, or 46.23, or
12 a licensed child welfare agency authorized to place children in foster homes or group
13 homes, or shelter care facilities approved under s. 48.63 (1) (b) 1. or in the homes of
14 relatives other than a parent.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 438, 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.

15 **SECTION 11.** 48.64 (1m) of the statutes is amended to read:

16 48.64 (1m) OUT-OF-HOME CARE AGREEMENTS. If an agency places a child in a
17 foster home or group home or in the home of a relative other than a parent under a
18 court order or places a child in a foster home or group home, or shelter care facility
19 approved under s. 48.63 (1) (b) 1. under a voluntary agreement under s. 48.63, the
20 agency shall enter into a written agreement with the head of the home or facility.
21 The agreement shall provide that the agency shall have access at all times to the
22 child and the home or facility, and that the child will be released to the agency
23 whenever, in the opinion of the agency placing the child or the department, the best
24 interests of the child require release to the agency. If a child has been in a foster home

1 or group home or in the home of a relative other than a parent for 6 months or more,
 2 the agency shall give the head of the home written notice of intent to remove the
 3 child, stating the reasons for the removal. The child may not be removed before
 4 completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the
 5 receipt of the notice, whichever is later, unless the safety of the child requires it or,
 6 in a case in which the reason for removal is to place the child for adoption under s.
 7 48.833, unless all of the persons who have the right to request a hearing under sub.
 8 (4) (a) or (c) sign written waivers of objection to the proposed removal. If the safety
 9 of the child requires earlier removal, s. 48.19 applies. If an agency removes a child
 10 from an adoptive placement, the head of the home shall have no claim against the
 11 placing agency for the expense of care, clothing, or medical treatment.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 408, 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.

12 **SECTION 12.** 48.64 (1r) of the statutes is amended to read:

shelter care facility

13 48.64 (1r) NOTIFICATION OF SCHOOL DISTRICT. When an agency places a
 14 school-age child in a foster home ~~or~~, group home, or shelter care facility approved
 15 under s. 48.63 (1) (b) 1. or in the home of a relative other than a parent, the agency
 16 shall notify the clerk of the school district in which the foster home, group home, ~~or~~
 17 home of the relative is located that a school-age child has been placed in a foster
 18 home, group home, ~~or~~ home of a relative in the school district.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 408, 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 13.** 48.64 (2) of the statutes is amended to read:

20 48.64 (2) SUPERVISION OF OUT-OF-HOME CARE PLACEMENTS. Every child who is
 21 placed in a foster home ~~or~~, group home, or shelter care facility approved under s.
 22 48.63 (1) (b) 1. shall be under the supervision of an agency. Every child who is placed

*care facility
shelter care facility,*

1 in the home of a relative other than a parent under a court order shall be under the
2 supervision of an agency.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, 438, 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.

3 **SECTION 14.** 48.64 (4) (a) of the statutes is amended to read:

4 48.64 (4) (a) Any decision or order issued by an agency that affects the head of
5 a foster home ~~or~~, group home, or shelter care facility approved under s. 48.63 (1) (b)
6 1, the head of the home of a relative other than a parent in which a child is placed,
7 or the child involved may be appealed to the department under fair hearing
8 procedures established under rules promulgated by the department. Upon receipt
9 of an appeal, the department shall give the head of the home or facility reasonable
10 notice and an opportunity for a fair hearing. The department may make any
11 additional investigation that the department considers necessary. The department
12 shall give notice of the hearing to the head of the home or facility and to the
13 departmental subunit, county department, or child welfare agency that issued the
14 decision or order. Each person receiving notice is entitled to be represented at the
15 hearing. At all hearings conducted under this paragraph, the head of the home or
16 facility, or a representative of the head of the home or facility, shall have an adequate
17 opportunity, notwithstanding s. 48.78 (2) (a), to examine all documents and records
18 to be used at the hearing at a reasonable time before the date of the hearing as well
19 as during the hearing, to bring witnesses, to establish all pertinent facts and
20 circumstances, and to question or refute any testimony or evidence, including an
21 opportunity to confront and cross-examine adverse witnesses. The department
22 shall grant a continuance for a reasonable period of time when an issue is raised for
23 the first time during a hearing. This requirement may be waived with the consent
24 of the parties. The decision of the department shall be based exclusively on evidence

1 introduced at the hearing. A transcript of testimony and exhibits, or an official report
2 containing the substance of what transpired at the hearing, together with all papers
3 and requests filed in the proceeding, and the findings of the hearing examiner shall
4 constitute the exclusive record for decision by the department. The department shall
5 make the record available at any reasonable time and at an accessible place to the
6 head of the home or facility or his or her representative. Decisions by the department
7 shall specify the reasons for the decision and identify the supporting evidence. No
8 person participating in an agency action being appealed may participate in the final
9 administrative decision on that action. The department shall render its decision as
10 soon as possible after the hearing and shall send a certified copy of its decision to the
11 head of the home or facility and to the departmental subunit, county department, or
12 child welfare agency that issued the decision or order. The decision shall be binding
13 on all parties concerned.

History: 1971 c. 40; 1973 c. 328; 1977 c. 271, 354, ~~38~~, 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.

14 **SECTION 15.** 48.64 (4) (c) of the statutes is amended to read:

15 48.64 (4) (c) The circuit court for the county where the dispositional order
16 placing a child in a foster home or group home or in the home of a relative other than
17 a parent was entered or the voluntary agreement under s. 48.63 placing a child in
18 a foster home ~~or~~, group home, or shelter care facility approved under s. 48.63 (1) (b)
19 1, was made has jurisdiction upon petition of any interested party over the child who
20 is placed in the foster home, group home, shelter care facility, or home of the relative.
21 The circuit court may call a hearing, at which the head of the home or facility and
22 the supervising agency under sub. (2) shall be present, for the purpose of reviewing
23 any decision or order of that agency involving the placement and care of the child.
24 If the child has been placed in a foster home or in the home of a relative other than

1 a parent, the foster parent or relative may present relevant evidence at the hearing.
 2 The petitioner has the burden of proving by clear and convincing evidence that the
 3 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, 413, 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.

4 **SECTION 16. 48.979 (1) (c)** of the statutes is amended to read:

5 48.979 (1) (c) A parent who has legal custody of a child may not place the child
 6 in a foster home, group home, shelter care facility, or inpatient treatment facility by
 7 means of a delegation of powers under par. (a). Those placements may be made only
 8 by means of a court order or as provided in s. 48.63 or 51.13.

History: 2011 a. 87; correction in (2) (form) under 35.7.

9 **SECTION 17. 48.979 (2)** of the statutes is amended to read:

10 48.979 (2) A power of attorney complies with sub. (1) (a) if the power of attorney
 11 substantially conforms to the following form:

12 **POWER OF ATTORNEY**

13 **DELEGATING PARENTAL POWER**

14 AUTHORIZED BY s. 48.979, Wis. Stats.

15 NAME(S) OF CHILD(REN)

16 This power of attorney is for the purpose of providing for the care and custody
 17 of:

18 Name, address, and date of birth of child

19 Name, address, and date of birth of child

20 Name, address, and date of birth of child

21 **DELEGATION OF POWER TO AGENT**

22 I, (name and address of parent), state that I have legal custody of the
 23 child(ren) named above. (*Only a parent who has legal custody may use this form.*)

24 *A parent may not use this form to delegate parental powers regarding a child who is*

1 *subject to the jurisdiction of the juvenile court under s. 48.13, 48.14, 938.12, 938.13,*
2 *or 938.14, Wis. Stats.*

3 I delegate my parental power to:

4 Name of agent

5 Agent's address

6 Agent's telephone number(s)

7 Agent's e-mail address

8 Relationship of agent to child(ren)

9 The parental power I am delegating is as follows:

10 FULL

11 *(Check if you want to delegate full parental power regarding the care and*
12 *custody of the child(ren) named above.)*

13 Full parental power regarding the care and custody of the child(ren) named
14 above

15 PARTIAL

16 *(Check each subject over which you want to delegate your parental power*
17 *regarding the child(ren) named above.)*

18 The power to consent to all health care; or

19 The power to consent to only the following health care:

20 Ordinary or routine health care, excluding major surgical procedures,
21 extraordinary procedures, and experimental treatment

22 Emergency blood transfusion

23 Dental care

24 Disclosure of health information about the child(ren)

25 The power to consent to educational and vocational services

1 ... The power to consent to the employment of the child(ren)

2 ... The power to consent to the disclosure of confidential information, other
3 than health information, about the child(ren)

4 ... The power to provide for the care and custody of the child(ren)

5 ... The power to consent to the child(ren) obtaining a motor vehicle operator’s
6 license

7 ... The power to travel with the child(ren) outside the state of Wisconsin

8 ... The power to obtain substitute care, such as child care, for the child(ren)

9 ... Other specifically delegated powers or limits on delegated powers (*Fill in the*
10 *following space or attach a separate sheet describing any other specific powers that*
11 *you wish to delegate or any limits that you wish to place on the powers you are*
12 *delegating.*)

13 This delegation of parental powers does not deprive a custodial or noncustodial
14 parent of any of his or her powers regarding the care and custody of the child,
15 whether granted by court order or force of law.

16 THIS DOCUMENT MAY NOT BE USED TO DELEGATE THE POWER TO
17 CONSENT TO THE MARRIAGE OR ADOPTION OF THE CHILD(REN), THE
18 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE
19 CHILD(REN), THE TERMINATION OF PARENTAL RIGHTS TO THE
20 CHILD(REN), THE ENLISTMENT OF THE CHILD(REN) IN THE U.S. ARMED
21 FORCES OR TO PLACE THE CHILD(REN) IN A FOSTER HOME, GROUP HOME,
22 SHELTER CARE FACILITY, OR INPATIENT TREATMENT FACILITY.

23 EFFECTIVE DATE AND TERM
24 OF THIS DELEGATION

1 STATEMENT OF AGENT

2 I, (name and address of agent), understand that (name(s) of parent(s)) has
3 (have) delegated to me the powers specified in this Power of Attorney regarding the
4 care and custody of (name(s) of child(ren)). I further understand that this Power
5 of Attorney may be revoked in writing at any time by a parent who has legal custody
6 of (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,
7 understand the powers delegated to me by this Power of Attorney, am fit, willing, and
8 able to undertake those powers, and accept those powers.

9 Agent's signature Date

10 APPENDIX

11 *(Here the parent(s) may indicate where they may be located during the term of*
12 *the Power of Attorney if different from the address(es) set forth above.)*

13 I can be located at:

14 Address(es)

15 Telephone number(s)

16 E-mail address(es)

17 Or, by contacting:

18 Name

19 Address

20 Telephone number

21 E-mail address

22 Or, I cannot be located

x

History: 2011 a. 87; correction in (2) (form) under 35.17.

23 **SECTION 18.** 253.10 (3) (c) 2. c. of the statutes is amended to read:

1 253.10 (3) (c) 2. c. That the woman has a legal right to continue her pregnancy
2 and to keep the child; to place the child in a foster home for 6 months ~~or~~, in a group
3 home for 15 days, or in a shelter care facility approved under s. 48.63 (1) (b) 1. for 20
4 days; to petition a court for placement of the child in a foster home or group home or
5 with a relative; or to place the child for adoption under a process that involves court
6 approval both of the voluntary termination of parental rights and of the adoption.

History: 1985 a. 56, 176; 1991 a. 263; 1993 a. 27 s. 37; Stats. 1993 s. 253.10; 1995 a. 309; 1997 a. 27; 1999 a. 9; 2005 a. 155, 277, 387; 2007 a. 20; 2009 a. 28; 2011 a. 217; 2013 a. 37.

7 **SECTION 19. 938.38 (2) (d) of the statutes is amended to read:**

8 938.38 (2) (d) The juvenile was placed under a voluntary agreement between
9 the agency and the juvenile's parent under s. 48.63 (1) (a) or (b) 2. or (5) (b).

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).

10

(END)

Malaise, Gordon

From: Buschman, Sara - DCF <Sara.Buschman@wisconsin.gov>
Sent: Friday, October 04, 2013 9:57 AM
To: Malaise, Gordon
Cc: Liedl, Kimberly - GOV
Subject: DCF comments on LRB 3027

Gordon,

Below please find DCF's comments on LRB 3027.

Grant exception on a shelter-wide, not individual basis: The Dept's intent is that exceptions would be considered and provided by the Department for an entire shelter; i.e., the exception is shelter-based, not individual placement-based. Once the Dept. grants an exception to a shelter, the Dept. would not have a role in reviewing or approving individual placements. The bill draft incorrectly in s. 48.63(1)(b) requires the Dept. to approve exceptions for each individual placement.

2. Perm plan requirement: Placement in a shelter care is less than 60 days and does not require a permanency plan. Therefore placement in shelter care should not be added to 48.38(2).

3. Appeal right: Shelter care facilities should not be added to the entities that have a right to appeal a decision to remove a child under s. 48.64(4)(a) and (4)(c).

4. Consent by child over 12: The Dept. intends that consent be required by a child over 12. Does language need to be added to that effect in 48.63(1)(b)2 or is the language in 48.63(1)(c) sufficient?

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



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-30271
GMM:sac:m

(2)
RMR

INV-14
400

2013 BILL

gen cat

Regenerate

1 AN ACT *to renumber* 48.58 (1); *to renumber and amend* 48.63 (1); *to amend*
2 48.028 (5) (a), 48.38 (2) (d), 48.38 (4) (d) 1., 48.57 (3n) (am) 6. c., 48.615 (1) (b),
3 48.64 (1), 48.64 (1m), 48.64 (1r), 48.64 (2), 48.64 (4) (a), 48.64 (4) (c), 48.979 (1)
4 (c), 48.979 (2), 253.10 (3) (c) 2. c. and 938.38 (2) (d); and *to create* 48.58 (5) and
5 48.63 (1) (b) of the statutes; **relating to:** placement of a child in a shelter care
6 facility under a voluntary agreement.

~~If DCF has approved that shelter care facility for use for such placements~~

Analysis by the Legislative Reference Bureau

Under current law, a child who has been taken into custody under the Children's Code or the Juvenile Justice Code, who has been ordered by the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code to be held in temporary physical custody, or who is in need of a transitional placement when emergency conditions necessitate an immediate change in placement may be held in a shelter care facility, which is a nonsecure place of temporary care and physical custody for children licensed by the Department of Children and Families (DCF).

This bill permits a child to be placed in a shelter care facility under a voluntary agreement for not more than 20 days. Specifically, under the bill, a child's parent, guardian, or Indian custodian, or the subunit of DCF that administers child welfare services in Milwaukee County, any other subunit of DCF that has placement and care responsibility for a child, the Department of Corrections (DOC), a county department

BILL

use
that DCF has approved for use for
such voluntary placements

(a) of human services or social services (county department), or a child welfare agency licensed to place children in shelter care facilities, may request the subunit of DCF responsible for the licensing and supervision of shelter care facilities to permit the placement of a child in a shelter care facility under a voluntary agreement. That subunit must review such a request on a case-by-case basis based on the needs of the child, the services provided by the shelter care facility, and the needs of the person making the request.

If the request is approved, the child's parent, guardian, or Indian custodian, or the subunit of DCF that administers child welfare services in Milwaukee County, any other subunit of DCF that has placement and care responsibility for the child, DOC, a county department, or a child welfare agency licensed to place children in shelter care facilities, may place the child or negotiate or act as intermediary for the placement of the child in the shelter care facility. A shelter care facility placement under a voluntary agreement may not exceed 20 days from the date on which the child was removed from his or her home or out-of-home placement under the voluntary agreement and may not be extended.

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

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

SECTION 1. 48.028 (5) (a) of the statutes is amended to read:

48.028 (5) (a) *Out-of-home care placement.* A voluntary consent by a parent or Indian custodian to an out-of-home care placement of an Indian child under s. 48.63 (1) (a) or (b) or (5) (b) or a delegation of powers by a parent regarding the care and custody of an Indian child under s. 48.979 is not valid unless the consent or delegation is executed in writing, recorded before a judge, and accompanied by a written certification by the judge that the terms and consequences of the consent or delegation were fully explained in detail to and were fully understood by the parent or Indian custodian. The judge shall also certify that the parent or Indian custodian fully understood the explanation in English or that the explanation was interpreted into a language that the parent or Indian custodian understood. Any consent or delegation of powers given under this paragraph prior to or within 10 days after the

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1 birth of the Indian child is not valid. A parent or Indian custodian who has executed
2 a consent or delegation of powers under this paragraph may withdraw the consent
3 or delegation for any reason at any time, and the Indian child shall be returned to
4 the parent or Indian custodian. A parent or Indian custodian who has executed a
5 consent or delegation of powers under this paragraph may also move to invalidate
6 the out-of-home care placement or delegation of powers under sub. (6).

7 **SECTION 2.** 48.38 (2) (d) of the statutes is amended to read:

8 48.38 (2) (d) The child was placed under a voluntary agreement between the
9 agency and the child's parent under s. 48.63 (1) (a) ~~or (b)~~ or (5) (b).

10 **SECTION 3.** 48.38 (4) (d) 1. of the statutes is amended to read:

11 48.38 (4) (d) 1. That the placement is made pursuant to a voluntary agreement
12 under s. 48.63 (1) (a).

13 **SECTION 4.** 48.57 (3n) (am) 6. c. of the statutes is amended to read:

14 48.57 (3n) (am) 6. c. The date on which the child is placed outside the long-term
15 kinship care relative's home under a court order or under a voluntary agreement
16 under s. 48.63 (1) (a) or (b) ~~or (c)~~ or (5) (b).

17 **SECTION 5.** 48.58 (1) of the statutes is renumbered 48.58.

18 **SECTION 6.** 48.58 (5) of the statutes is created to read:

19 48.58 (5) Provide temporary shelter care for children placed in the county
20 children's home under a voluntary agreement under s. 48.63 (1) (b) ~~or (c)~~

← LPS: plain period stays

21 **SECTION 7.** 48.615 (1) (b) of the statutes is amended to read:

22 48.615 (1) (b) Except as provided in par. (e), before the department may issue
23 a license under s. 48.60 (1) to a child welfare agency that places children in licensed
24 foster homes, licensed group homes, shelter care facilities approved under s. 48.62

BILL

938.22 (2) (c)

1 (1) (b) and in the homes of guardians under s. 48.977 (2), the child welfare agency
2 must pay to the department a biennial fee of \$254.10.

3 SECTION 8. 48.63 (1) of the statutes is renumbered 48.63 (1) (a) and amended
4 to read:

5 48.63 (1) (a) Acting under court order or voluntary agreement, the child's
6 parent, guardian, or Indian custodian, or the department, the department of
7 corrections, a county department under s. 46.215, 46.22, or 46.23, or a child welfare
8 agency licensed to place children in foster homes or group homes may place a child
9 or negotiate or act as intermediary for the placement of a child in a foster home or
10 group home. Voluntary agreements under this ~~subsection~~ paragraph may not be
11 used for placements in facilities other than foster homes or group homes and may not
12 be extended. A foster home placement under a voluntary agreement may not exceed
13 180 days from the date on which the child was removed from the home under the
14 voluntary agreement. A group home placement under a voluntary agreement may
15 not exceed 15 days from the date on which the child was removed from the home
16 under the voluntary agreement, except as provided in sub. (5). These periods do not
17 apply to placements made under s. 48.345, 938.183, 938.34, or 938.345.

18 (c) Voluntary agreements may be made only under ~~this subsection and par. (a)~~
19 or (b) ^e or sub. (5) (b) and, shall be in writing, and shall specifically state that the
20 agreement may be terminated at any time by the parent, guardian, or Indian
21 custodian or by the child if the child's consent to the agreement is required. In the
22 case of an Indian child who is placed under ~~this subsection and par. (a) or (b) ^e~~
23 the voluntary agreement of the Indian child's parent or Indian custodian, the
24 voluntary consent of the parent or Indian custodian to the placement shall be given

BILL

under par. (a) or (b)

am on

LPS: strike the

1 as provided in s. 48.028 (5) (a). The child's consent to the agreement is required
2 whenever the child is 12 years of age or older.

3 (d) If a county department, the department, or the department of corrections
4 places a child or negotiates or acts as intermediary for the placement of a child under
5 ~~this subsection and par. (a) or (b)~~ the voluntary agreement shall also specifically
6 state that the county department, department, or department of corrections has
7 placement and care responsibility for the child as required under 42 USC 672 (a) (2)
8 and has primary responsibility for providing services to the child.

SECTION 9. 48.63 (1) (b) of the statutes is created to read:

9
10 48.63 (1) (b) ~~(d)~~ A child's parent, guardian, or Indian custodian, or the subunit
11 of the department that administers child welfare services in a county having a
12 population of 750,000 or more, any other subunit of the department that has
13 placement and care responsibility for a child, the department of corrections, a county
14 department under s. 46.215, 46.22, or 46.23, or a child welfare agency licensed to
15 place children in shelter care facilities, may ~~request the subunit of the department~~
16 ~~responsible for the licensing and supervision of shelter care facilities to permit the~~
17 ~~placement of a child in a shelter care facility under a voluntary agreement. That~~
18 ~~subunit shall review such a request on a case-by-case basis based on the needs of~~
19 ~~the child, the services provided by the shelter care facility, and the needs of the person~~
20 ~~making the request.~~

21 2. If a request under subd. 1. is approved, the child's parent, guardian, or Indian
22 custodian, or the subunit of the department that administers child welfare services
23 in a county having a population of 750,000 or more, any other subunit of the
24 department that has placement and care responsibility for the child, the department
25 of corrections, a county department under s. 46.215, 46.22, or 46.23, or a child welfare

BILL

that the department has approved under s. 938.22 (2)(c) for use for placements, under this paragraph

SECTION 9

1 ~~agency licensed to place children in shelter care facilities, may~~ place the child or
 2 negotiate or act as intermediary for the placement of the child in ^(c) ~~the~~ shelter care
 3 facility. A voluntary agreement under this ^{Paragraph} ~~subdivision~~ may not be used for
 4 placement in a facility other than ^(an) ~~the~~ approved shelter care facility. A shelter care
 5 facility placement under a voluntary agreement may not exceed 20 days from the
 6 date on which the child was removed from his or her home or out-of-home placement
 7 under the voluntary agreement and may not be extended.

SECTION 10. 48.64 (1) of the statutes is amended to read:

9 48.64 (1) DEFINITION. In this section, "agency" means the department, the
 10 department of corrections, a county department under s. 46.215, 46.22, or 46.23, or
 11 a licensed child welfare agency authorized to place children in foster homes or group
 12 homes, or shelter care facilities approved under s. ~~48.63 (1)(b)(1)~~ or in the homes of
 13 relatives other than a parent.

SECTION 11. 48.64 (1m) of the statutes is amended to read:

15 48.64 (1m) OUT-OF-HOME CARE AGREEMENTS. If an agency places a child in a
 16 foster home or group home or in the home of a relative other than a parent under a
 17 court order or places a child in a foster home or group home, or shelter care facility
 18 approved under s. ~~48.63 (1)(b)(1)~~ under a voluntary agreement under s. 48.63, the
 19 agency shall enter into a written agreement with the head of the home or facility.
 20 The agreement shall provide that the agency shall have access at all times to the
 21 child and the home or facility, and that the child will be released to the agency
 22 whenever, in the opinion of the agency placing the child or the department, the best
 23 interests of the child require release to the agency. If a child has been in a foster home
 24 or group home or in the home of a relative other than a parent for 6 months or more,
 25 the agency shall give the head of the home written notice of intent to remove the

BILL

From a foster home, group home, or home of a relative other than a parent

1 child, stating the reasons for the removal. The child may not be removed before
2 completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the
3 receipt of the notice, whichever is later, unless the safety of the child requires it or,
4 in a case in which the reason for removal is to place the child for adoption under s.
5 48.833, unless all of the persons who have the right to request a hearing under sub.
6 (4) (a) or (c) sign written waivers of objection to the proposed removal. If the safety
7 of the child requires earlier removal, s. 48.19 applies. If an agency removes a child
8 from an adoptive placement, the head of the home shall have no claim against the
9 placing agency for the expense of care, clothing, or medical treatment.

10 SECTION 12. 48.64 (1r) of the statutes is amended to read:

938.22(2)(c)
938.22(2)(c)

11 48.64 (1r) NOTIFICATION OF SCHOOL DISTRICT. When an agency places a
12 school-age child in a foster home or, group home, or shelter care facility approved
13 under s. ~~48.63 (1) (b) 1~~ or in the home of a relative other than a parent, the agency
14 shall notify the clerk of the school district in which the foster home, group home,
15 shelter care facility, or home of the relative is located that a school-age child has been
16 placed in a foster home, group home, shelter care facility, or home of a relative in the
17 school district.

938.22(2)(c)
938.22(2)(c)

18 SECTION 13. 48.64 (2) of the statutes is amended to read:

19 48.64 (2) SUPERVISION OF OUT-OF-HOME CARE PLACEMENTS. Every child who is
20 placed in a foster home or, group home, or shelter care facility approved under s.
21 ~~48.63 (1) (b) 1~~ shall be under the supervision of an agency. Every child who is placed
22 in the home of a relative other than a parent under a court order shall be under the
23 supervision of an agency.

24 SECTION 14. 48.64 (4) (a) of the statutes is amended to read:

BILL**SECTION 14**

1 ~~48.64 (4) (a) Any decision or order issued by an agency that affects the head of~~
2 ~~a foster home or, group home, or shelter care facility approved under s. 48.63 (1) (b)~~
3 ~~1., the head of the home of a relative other than a parent in which a child is placed,~~
4 ~~or the child involved may be appealed to the department under fair hearing~~
5 ~~procedures established under rules promulgated by the department. Upon receipt~~
6 ~~of an appeal, the department shall give the head of the home or facility reasonable~~
7 ~~notice and an opportunity for a fair hearing. The department may make any~~
8 ~~additional investigation that the department considers necessary. The department~~
9 ~~shall give notice of the hearing to the head of the home or facility and to the~~
10 ~~departmental subunit, county department, or child welfare agency that issued the~~
11 ~~decision or order. Each person receiving notice is entitled to be represented at the~~
12 ~~hearing. At all hearings conducted under this paragraph, the head of the home or~~
13 ~~facility, or a representative of the head of the home or facility, shall have an adequate~~
14 ~~opportunity, notwithstanding s. 48.78 (2) (a), to examine all documents and records~~
15 ~~to be used at the hearing at a reasonable time before the date of the hearing as well~~
16 ~~as during the hearing, to bring witnesses, to establish all pertinent facts and~~
17 ~~circumstances, and to question or refute any testimony or evidence, including an~~
18 ~~opportunity to confront and cross-examine adverse witnesses. The department~~
19 ~~shall grant a continuance for a reasonable period of time when an issue is raised for~~
20 ~~the first time during a hearing. This requirement may be waived with the consent~~
21 ~~of the parties. The decision of the department shall be based exclusively on evidence~~
22 ~~introduced at the hearing. A transcript of testimony and exhibits, or an official report~~
23 ~~containing the substance of what transpired at the hearing, together with all papers~~
24 ~~and requests filed in the proceeding, and the findings of the hearing examiner shall~~
25 ~~constitute the exclusive record for decision by the department. The department shall~~

BILL

1 ~~make the record available at any reasonable time and at an accessible place to the~~
2 ~~head of the home or facility or his or her representative. Decisions by the department~~
3 ~~shall specify the reasons for the decision and identify the supporting evidence. No~~
4 ~~person participating in an agency action being appealed may participate in the final~~
5 ~~administrative decision on that action. The department shall render its decision as~~
6 ~~soon as possible after the hearing and shall send a certified copy of its decision to the~~
7 ~~head of the home or facility and to the departmental subunit, county department, or~~
8 ~~child welfare agency that issued the decision or order. The decision shall be binding~~
9 ~~on all parties concerned.~~

10 **SECTION 15.** 48.64 (4) (c) of the statutes is amended to read:

11 48.64 (4) (c) The circuit court for the county where the dispositional order
12 placing a child in a foster home or group home or in the home of a relative other than
13 a parent was entered or the voluntary agreement under s. 48.63 placing a child in
14 a foster home or, group home, or shelter care facility approved under s. 48.63 (1) (b)
15 1. was made has jurisdiction upon petition of any interested party over the child who
16 is placed in the foster home, group home, shelter care facility, or home of the relative.
17 The circuit court may call a hearing, at which the head of the home or facility and
18 the supervising agency under sub. (2) shall be present, for the purpose of reviewing
19 any decision or order of that agency involving the placement and care of the child.
20 If the child has been placed in a foster home or in the home of a relative other than
21 a parent, the foster parent or relative may present relevant evidence at the hearing.
22 The petitioner has the burden of proving by clear and convincing evidence that the
23 ~~decision or order issued by the agency is not in the best interests of the child.~~

24 **SECTION 16.** 48.979 (1) (c) of the statutes is amended to read:

BILL

1 48.979 (1) (c) A parent who has legal custody of a child may not place the child
 2 in a foster home, group home, shelter care facility, or inpatient treatment facility by
 3 means of a delegation of powers under par. (a). Those placements may be made only
 4 by means of a court order or as provided in s. 48.63 or 51.13.

5 **SECTION 17.** 48.979 (2) of the statutes is amended to read:

6 48.979 (2) A power of attorney complies with sub. (1) (a) if the power of attorney
 7 substantially conforms to the following form:

POWER OF ATTORNEY

DELEGATING PARENTAL POWER

AUTHORIZED BY s. 48.979, Wis. Stats.

NAME(S) OF CHILD(REN)

12 This power of attorney is for the purpose of providing for the care and custody
 13 of:

14 Name, address, and date of birth of child

15 Name, address, and date of birth of child

16 Name, address, and date of birth of child

DELEGATION OF POWER TO AGENT

18 I, (name and address of parent), state that I have legal custody of the
 19 child(ren) named above. (*Only a parent who has legal custody may use this form.*)
 20 *A parent may not use this form to delegate parental powers regarding a child who is*
 21 *subject to the jurisdiction of the juvenile court under s. 48.13, 48.14, 938.12, 938.13,*
 22 *or 938.14, Wis. Stats.*

23 I delegate my parental power to:

24 Name of agent

25 Agent's address

BILL

1 Agent's telephone number(s)

2 Agent's e-mail address

3 Relationship of agent to child(ren)

4 The parental power I am delegating is as follows:

5 FULL

6 *(Check if you want to delegate full parental power regarding the care and*
7 *custody of the child(ren) named above.)*

8 Full parental power regarding the care and custody of the child(ren) named
9 above

10 PARTIAL

11 *(Check each subject over which you want to delegate your parental power*
12 *regarding the child(ren) named above.)*

13 The power to consent to all health care; or

14 The power to consent to only the following health care:

15 Ordinary or routine health care, excluding major surgical procedures,
16 extraordinary procedures, and experimental treatment

17 Emergency blood transfusion

18 Dental care

19 Disclosure of health information about the child(ren)

20 The power to consent to educational and vocational services

21 The power to consent to the employment of the child(ren)

22 The power to consent to the disclosure of confidential information, other
23 than health information, about the child(ren)

24 The power to provide for the care and custody of the child(ren)

BILL

1 The power to consent to the child(ren) obtaining a motor vehicle operator's
2 license

3 The power to travel with the child(ren) outside the state of Wisconsin

4 The power to obtain substitute care, such as child care, for the child(ren)

5 Other specifically delegated powers or limits on delegated powers (*Fill in the*
6 *following space or attach a separate sheet describing any other specific powers that*
7 *you wish to delegate or any limits that you wish to place on the powers you are*
8 *delegating.*)

9 This delegation of parental powers does not deprive a custodial or noncustodial
10 parent of any of his or her powers regarding the care and custody of the child,
11 whether granted by court order or force of law.

12 **THIS DOCUMENT MAY NOT BE USED TO DELEGATE THE POWER TO**
13 **CONSENT TO THE MARRIAGE OR ADOPTION OF THE CHILD(REN), THE**
14 **PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE**
15 **CHILD(REN), THE TERMINATION OF PARENTAL RIGHTS TO THE**
16 **CHILD(REN), THE ENLISTMENT OF THE CHILD(REN) IN THE U.S. ARMED**
17 **FORCES OR TO PLACE THE CHILD(REN) IN A FOSTER HOME, GROUP HOME,**
18 **SHELTER CARE FACILITY, OR INPATIENT TREATMENT FACILITY.**

19 **EFFECTIVE DATE AND TERM**

20 **OF THIS DELEGATION**

21 This Power of Attorney takes effect on and will remain in effect until If
22 no termination date is given or if the termination date given is more than one year
23 after the effective date of this Power of Attorney, this Power of Attorney will remain
24 in effect for a period of one year after the effective date, but no longer. This Power
25 of Attorney may be revoked in writing at any time by a parent who has legal custody

BILL

1 of the child(ren) and such a revocation invalidates the delegation of parental powers
2 made by this Power of Attorney, except with respect to acts already taken in reliance
3 on this Power of Attorney.

4 SIGNATURE(S) OF PARENT(S)

5 Signature of parent Date

6 Parent's name printed

7 Parent's address

8 Parent's telephone number

9 Parent's e-mail address

10 Signature of parent Date

11 Parent's name printed

12 Parent's address

13 Parent's telephone number

14 Parent's e-mail address

15 WITNESSING OF SIGNATURE(S) (OPTIONAL)

16 State of

17 County of

18 This document was signed before me on (date) by (name(s) of parent(s)).

19 Signature of notary

20 My commission expires:

21 STATEMENT OF AGENT

22 I, (name and address of agent), understand that (name(s) of parent(s)) has
23 (have) delegated to me the powers specified in this Power of Attorney regarding the
24 care and custody of (name(s) of child(ren)). I further understand that this Power
25 of Attorney may be revoked in writing at any time by a parent who has legal custody

BILL

1 of (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,
2 understand the powers delegated to me by this Power of Attorney, am fit, willing, and
3 able to undertake those powers, and accept those powers.

4 Agent's signature Date

5 **APPENDIX**

6 *(Here the parent(s) may indicate where they may be located during the term of*
7 *the Power of Attorney if different from the address(es) set forth above.)*

8 I can be located at:

9 Address(es)

10 Telephone number(s)

11 E-mail address(es)

12 Or, by contacting:

13 Name

14 Address

15 Telephone number

16 E-mail address

17 Or, I cannot be located

18 **SECTION 18.** 253.10 (3) (c) 2. c. of the statutes is amended to read:

19 253.10 (3) (c) 2. c. That the woman has a legal right to continue her pregnancy
20 and to keep the child; to place the child in a foster home for 6 months or, in a group
21 home for 15 days, or in a shelter care facility approved under ~~§ 48.63 (1) (b) 1,~~ for 20
22 days; to petition a court for placement of the child in a foster home or group home or
23 with a relative; or to place the child for adoption under a process that involves court
24 approval both of the voluntary termination of parental rights and of the adoption.

938.22(2)(c)

25 **SECTION 19.** 938.38 (2) (d) of the statutes is amended to read:

Insert
14-24

BILL

1 938.38 (2) (d) The juvenile was placed under a voluntary agreement between
2 the agency and the juvenile's parent under s. 48.63 (1) (a) ~~or (b) or~~ or (5) (b).

3

(END)

2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3027/2ins
GMM.....

(INSERT 14-24)

1 SECTION 1. 938.22 (2) (c) of the statutes is amended to read:
2 938.22 (2) (c) A shelter care facility ~~shall~~ may be used for the temporary care
3 of juveniles children taken into custody under s. 48.19, in need of transitional
4 placements in emergency situations under s. 48.357 (2m), or placed in the shelter
5 care facility by order of the court under ch. 48 and of juveniles taken into custody
6 under s. 938.19, in need of transitional placements in emergency situations under
7 s. 938.357 (2m), or placed in the shelter care facility by order of the court under this
8 chapter, except that on the request of a person licensed to operate a shelter care
9 facility the department of children and families may permit that shelter care facility
10 to be used for voluntary placements under s. 48.63 (1) (b). The department of
11 children and families shall review such a request on a case-by-case basis based on
12 the needs of children and juveniles in the area served by the shelter care facility and
13 the services provided by the shelter care facility and may approve the request if it
14 determines that the services provided by the shelter care facility would meet those
15 needs. A shelter care facility, other than a holdover room, may not be in the same
16 building as a facility for the detention of adults.

History: 1995 a. 27 s. 9126 (19); 1995 a. 77, 352; 1997 a. 27, 35, 252; 1999 a. 9; 2005 a. 344; 2007 a. 20, 97; 2011 a. 209.

(END OF INSERT)

(INSERT A)

⁹
* area
Under the bill, a person licensed to operate a shelter care facility may request DCF to permit the shelter care facility to be used for ~~such~~ voluntary placements and DCF must review the request on a case-by-case basis based on the needs of children in the area served by the shelter care facility and the services provided by the shelter care facility. If DCF determines that those services would meet those needs, DCF may approve the request.

(END OF INSERT)