Malaise, Gordon

From: Durkin, Therese A - DCF <Therese.Durkin@wisconsin.gov>
Sent: Friday, November 08, 2013 11:59 AM
To: Malaise, Gordon
Subject: Shelter care rule

Hi Gordon,

I'm not sure DSP will pass on this comment I told them that I'd talk with you about it - so here it is:

4. For the drafter - S. 9, and created s. 48.63(1)(b), reads differently than S. 8 and existing s. 48.63(1)(a) in that (1)(b) says that the BMCW and "any other subunit of DCF that has placement and care responsibility for a child" may place a child in voluntary shelter care, but (1)(a) just says the department may place a child in foster care or a group home. Also, other agencies referenced in (1)(b), e.g., BMCW, county agencies, DOC, may place a child in voluntary shelter care whether or not they have placement and care responsibility. Is there a reason for the differences?

Good talking with you and thanks for all of your help,

Therese

7-9722

State of Wisconsin
2013 – 2014 LEGISLATURE

In 11/25
This week

LRB–3027/2
GMM:sac:gac

2013 BILL

gen cat

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), 48.979 (1) (c), 48.979 (2), 253.10 (3)
4 (c) 2. c., 938.22 (2) (c) and 938.38 (2) (d); and ***to create*** 48.58 (5) and 48.63 (1)
5 (b) of the statutes; **relating to:** placement of a child in a shelter care facility
6 under a voluntary agreement.

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

DCF

of human services or social services (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 a shelter care facility that DCF has approved for use for such voluntary placements. 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.

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 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.

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) 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

or delegation for any reason at any time, and the Indian child shall be returned to the parent or Indian custodian. A parent or Indian custodian who has executed a consent or delegation of powers under this paragraph may also move to invalidate the out–of–home care placement or delegation of powers under sub. (6).

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

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

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

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

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

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

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

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

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

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

48.615 **(1)** (b) Except as provided in par. (e), before the department may issue a license under s. 48.60 (1) to a child welfare agency that places children in licensed foster homes, licensed group homes, shelter care facilities approved under s. 938.22 (2) (c), and in the homes of guardians under s. 48.977 (2), the child welfare agency must pay to the department a biennial fee of $254.10.

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

3 48.63 **(1)** (a) Acting under court order or voluntary agreement, the child's
4 parent, guardian, or Indian custodian, or the department, the department of
5 corrections, a county department under s. 46.215, 46.22, or 46.23, or a child welfare
6 agency licensed to place children in foster homes or group homes may place a child
7 or negotiate or act as intermediary for the placement of a child in a foster home or
8 group home. Voluntary agreements under this ~~subsection~~ paragraph may not be
9 used for placements in facilities other than foster homes or group homes and may not
10 be extended. A foster home placement under a voluntary agreement may not exceed
11 180 days from the date on which the child was removed from the home under the
12 voluntary agreement. A group home placement under a voluntary agreement may
13 not exceed 15 days from the date on which the child was removed from the home
14 under the voluntary agreement, except as provided in sub. (5). These periods do not
15 apply to placements made under s. 48.345, 938.183, 938.34, or 938.345.

16 (c) Voluntary agreements may be made only under ~~this subsection and~~ par. (a)
17 or (b) or sub. (5) (b) ~~and~~, shall be in writing, and shall specifically state that the
18 agreement may be terminated at any time by the parent, guardian, or Indian
19 custodian or by the child if the child's consent to the agreement is required. In the
20 case of an Indian child who is placed under ~~this subsection and~~ par. (a) or (b) by the
21 voluntary agreement of the Indian child's parent or Indian custodian, the voluntary
22 consent of the parent or Indian custodian to the placement shall be given as provided
23 in s. 48.028 (5) (a). The child's consent to ~~the~~ an agreement under par. (a) or (b) is
24 required whenever the child is 12 years of age or older.

Acting under a voluntary agreement, a

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

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

8 48.63 **(1)** (b) A child's parent, guardian, or Indian custodian, ~~or the subunit of~~
9 ~~the department that administers child welfare services in a county having a~~
10 ~~population of 750,000 or more, any other subunit of the department that has~~
11 ~~placement and care responsibility for a child~~, the department of corrections, a county
12 department under s. 46.215, 46.22, or 46.23, or a child welfare agency licensed to
13 place children in shelter care facilities, may place the child or negotiate or act as
14 intermediary for the placement of the child in a shelter care facility that the
15 department has approved under s. 938.22 (2) (c) for use for placements under this
16 paragraph. A voluntary agreement under this paragraph may not be used for
17 placement in a facility other than an approved shelter care facility. A shelter care
18 facility placement under a voluntary agreement may not exceed 20 days from the
19 date on which the child was removed from his or her home or out–of–home placement
20 under the voluntary agreement and may not be extended.

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

22 48.64 **(1)** DEFINITION. In this section, "agency" means the department, the
23 department of corrections, a county department under s. 46.215, 46.22, or 46.23, or
24 a licensed child welfare agency authorized to place children in foster homes ~~or~~, group

homes, or shelter care facilities approved under s. 938.22 (2) (c) or in the homes of relatives other than a parent.

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

48.64 **(1m)** OUT-OF-HOME CARE AGREEMENTS. If an agency places a child in a foster home or group home or in the home of a relative other than a parent under a court order or places a child in a foster home ~~or~~, group home, or shelter care facility approved under s. 938.22 (2) (c) under a voluntary agreement under s. 48.63, the agency shall enter into a written agreement with the head of the home or facility. The agreement shall provide that the agency shall have access at all times to the child and the home or facility, and that the child will be released to the agency whenever, in the opinion of the agency placing the child or the department, the best interests of the child require release to the agency. If a child has been in a foster home or group home or in the home of a relative other than a parent for 6 months or more, the agency shall give the head of the home written notice of intent to remove the child, stating the reasons for the removal. The child may not be removed from a foster home, group home, or home of a relative other than a parent before completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the receipt of the notice, whichever is later, unless the safety of the child requires it or, in a case in which the reason for removal is to place the child for adoption under s. 48.833, unless all of the persons who have the right to request a hearing under sub. (4) (a) or (c) sign written waivers of objection to the proposed removal. If the safety of the child requires earlier removal, s. 48.19 applies. If an agency removes a child from an adoptive placement, the head of the home shall have no claim against the placing agency for the expense of care, clothing, or medical treatment.

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

48.64 **(1r)** NOTIFICATION OF SCHOOL DISTRICT. When an agency places a school–age child in a foster home ~~or~~, group home, or shelter care facility approved under s. 938.22 (2) (c) or in the home of a relative other than a parent, the agency shall notify the clerk of the school district in which the foster home, group home, shelter care facility, or home of the relative is located that a school–age child has been placed in a foster home, group home, shelter care facility, or home of a relative in the school district.

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

48.64 **(2)** SUPERVISION OF OUT–OF–HOME CARE PLACEMENTS. Every child who is placed in a foster home ~~or~~, group home, or shelter care facility approved under s. 938.22 (2) (c) shall be under the supervision of an agency. Every child who is placed in the home of a relative other than a parent under a court order shall be under the supervision of an agency.

SECTION 14. 48.979 (1) (c) of the statutes is amended to read:

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

SECTION 15. 48.979 (2) of the statutes is amended to read:

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

POWER OF ATTORNEY

DELEGATING PARENTAL POWER

AUTHORIZED BY s. 48.979, Wis. Stats.

NAME(S) OF CHILD(REN)

1 This power of attorney is for the purpose of providing for the care and custody
2 of:
3 Name, address, and date of birth of child ....
4 Name, address, and date of birth of child ....
5 Name, address, and date of birth of child ....
6 DELEGATION OF POWER TO AGENT
7 I, ... (name and address of parent), state that I have legal custody of the
8 child(ren) named above. (*Only a parent who has legal custody may use this form.*)
9 *A parent may not use this form to delegate parental powers regarding a child who is*
10 *subject to the jurisdiction of the juvenile court under* s. 48.13, 48.14, 938.12, 938.13,
11 or 938.14, Wis. Stats.
12 I delegate my parental power to:
13 Name of agent ....
14 Agent's address ....
15 Agent's telephone number(s) ....
16 Agent's e–mail address ....
17 Relationship of agent to child(ren) ....
18 The parental power I am delegating is as follows:
19 FULL
20 (*Check if you want to delegate full parental power regarding the care and*
21 *custody of the child(ren) named above.*)
22 .... Full parental power regarding the care and custody of the child(ren) named
23 above
24 PARTIAL

1 (*Check each subject over which you want to delegate your parental power*
2 *regarding the child(ren) named above.*)
3 .... The power to consent to all health care; or
4 .... The power to consent to only the following health care:
5 .... Ordinary or routine health care, excluding major surgical procedures,
6 extraordinary procedures, and experimental treatment
7 .... Emergency blood transfusion
8 .... Dental care
9 .... Disclosure of health information about the child(ren)
10 .... The power to consent to educational and vocational services
11 .... The power to consent to the employment of the child(ren)
12 .... The power to consent to the disclosure of confidential information, other
13 than health information, about the child(ren)
14 .... The power to provide for the care and custody of the child(ren)
15 .... The power to consent to the child(ren) obtaining a motor vehicle operator's
16 license
17 .... The power to travel with the child(ren) outside the state of Wisconsin
18 .... The power to obtain substitute care, such as child care, for the child(ren)
19 .... Other specifically delegated powers or limits on delegated powers (*Fill in the*
20 *following space or attach a separate sheet describing any other specific powers that*
21 *you wish to delegate or any limits that you wish to place on the powers you are*
22 *delegating.*) ....
23 This delegation of parental powers does not deprive a custodial or noncustodial
24 parent of any of his or her powers regarding the care and custody of the child,
25 whether granted by court order or force of law.

1 THIS DOCUMENT MAY NOT BE USED TO DELEGATE THE POWER TO
2 CONSENT TO THE MARRIAGE OR ADOPTION OF THE CHILD(REN), THE
3 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE
4 CHILD(REN), THE TERMINATION OF PARENTAL RIGHTS TO THE
5 CHILD(REN), THE ENLISTMENT OF THE CHILD(REN) IN THE U.S. ARMED
6 FORCES OR TO PLACE THE CHILD(REN) IN A FOSTER HOME, GROUP HOME,
7 SHELTER CARE FACILITY, OR INPATIENT TREATMENT FACILITY.
8 EFFECTIVE DATE AND TERM
9 OF THIS DELEGATION
10 This Power of Attorney takes effect on .... and will remain in effect until .... If
11 no termination date is given or if the termination date given is more than one year
12 after the effective date of this Power of Attorney, this Power of Attorney will remain
13 in effect for a period of one year after the effective date, but no longer. This Power
14 of Attorney may be revoked in writing at any time by a parent who has legal custody
15 of the child(ren) and such a revocation invalidates the delegation of parental powers
16 made by this Power of Attorney, except with respect to acts already taken in reliance
17 on this Power of Attorney.
18 SIGNATURE(S) OF PARENT(S)
19 Signature of parent .... Date ....
20 Parent's name printed ....
21 Parent's address ....
22 Parent's telephone number ....
23 Parent's e–mail address ....
24 Signature of parent .... Date ....
25 Parent's name printed ....

1 Parent's address ....

2 Parent's telephone number ....

3 Parent's e–mail address ....

4 WITNESSING OF SIGNATURE(S) (OPTIONAL)

5 State of ....

6 County of ....

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

8 Signature of notary ....

9 My commission expires: ....

10 STATEMENT OF AGENT

11 I, ... (name and address of agent), understand that .... (name(s) of parent(s)) has
12 (have) delegated to me the powers specified in this Power of Attorney regarding the
13 care and custody of .... (name(s) of child(ren)). I further understand that this Power
14 of Attorney may be revoked in writing at any time by a parent who has legal custody
15 of .... (name(s) of child(ren)). I hereby declare that I have read this Power of Attorney,
16 understand the powers delegated to me by this Power of Attorney, am fit, willing, and
17 able to undertake those powers, and accept those powers.

18 Agent's signature .... Date ....

19 APPENDIX

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

22 .... I can be located at:

23 Address(es) ....

24 Telephone number(s) ....

25 E–mail address(es) ....

.... Or, by contacting:

Name ....

Address ....

Telephone number ....

E–mail address ....

.... Or, I cannot be located

SECTION 16. 253.10 (3) (c) 2. c. of the statutes is amended to read:

253.10 **(3)** (c) 2. c. That the woman has a legal right to continue her pregnancy and to keep the child; to place the child in a foster home for 6 months ~~or~~, in a group home for 15 days, or in a shelter care facility approved under s. 938.22 (2) (c) for 20 days; to petition a court for placement of the child in a foster home or group home or with a relative; or to place the child for adoption under a process that involves court approval both of the voluntary termination of parental rights and of the adoption.

SECTION 17. 938.22 (2) (c) of the statutes is amended to read:

938.22 **(2)** (c) A shelter care facility ~~shall~~ may be used for the temporary care of ~~juveniles~~ children taken into custody under s. 48.19, in need of transitional placements in emergency situations under s. 48.357 (2m), or placed in the shelter care facility by order of the court under ch. 48 and of juveniles taken into custody under s. 938.19, in need of transitional placements in emergency situations under s. 938.357 (2m), or placed in the shelter care facility by order of the court under this chapter, except that on the request of a person licensed to operate a shelter care facility the department of children and families may permit that shelter care facility to be used for voluntary placements under s. 48.63 (1) (b). The department of children and families shall review such a request ~~on a case–by–case basis~~ based on the needs of children and juveniles in the area served by the shelter care facility and

1 the services provided by the shelter care facility and may approve the request if it
2 determines that the services provided by the shelter care facility would meet those
3 needs. A shelter care facility, other than a holdover room, may not be in the same
4 building as a facility for the detention of adults.

5 **SECTION 18.** 938.38 (2) (d) of the statutes is amended to read:

6 938.38 **(2)** (d) The juvenile was placed under a voluntary agreement between
7 the agency and the juvenile's parent under s. 48.63 (1) (a) or (5) (b).

8 **(END)**

Malaise, Gordon

From: Liedl, Kimberly - DCF <Kimberly.Liedl@wisconsin.gov>
Sent: Tuesday, January 14, 2014 4:45 PM
To: Malaise, Gordon
Cc: Buschman, Sara - DCF
Subject: LRB 3027: Shelter care draft

Gordon,
We have one minor change that we need to make to LRB 3027 (shelter care facilities). We would like to specify in the draft that the 20 days are counted from the day the child is placed in the shelter care facility. Please let me know if you have any questions.
Thanks,
Kimber

Kimberly Liedl
Legislative Liaison
Department of Children and Families

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Madison, WI 53703
T: 608.261.8678
E: kimberly.liedl@wisconsin.gov

State of Wisconsin
2013 – 2014 LEGISLATURE

LRB–3027/3
GMM:sac:rs

2013 BILL

AN ACT ***to renumber*** 48.58 (1); ***to renumber and amend*** 48.63 (1); ***to amend*** 48.028 (5) (a), 48.38 (2) (d), 48.38 (4) (d) 1., 48.57 (3n) (am) 6. c., 48.615 (1) (b), 48.64 (1), 48.64 (1m), 48.64 (1r), 48.64 (2), 48.979 (1) (c), 48.979 (2), 253.10 (3) (c) 2. c., 938.22 (2) (c) and 938.38 (2) (d); and ***to create*** 48.58 (5) and 48.63 (1) (b) of the statutes; **relating to:** placement of a child in a shelter care facility under a voluntary agreement.

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, DCF, 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 place the child

placed in the shelter care facility

or negotiate or act as intermediary for the placement of the child in a shelter care facility that DCF has approved for use for such voluntary placements. 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.

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 voluntary placements and DCF must review the request 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.

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 birth of the Indian child is not valid. A parent or Indian custodian who has executed a consent or delegation of powers under this paragraph may withdraw the consent or delegation for any reason at any time, and the Indian child shall be returned to

the parent or Indian custodian. A parent or Indian custodian who has executed a consent or delegation of powers under this paragraph may also move to invalidate the out–of–home care placement or delegation of powers under sub. (6).

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

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

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

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

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

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

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

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

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

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

48.615 **(1)** (b) Except as provided in par. (e), before the department may issue a license under s. 48.60 (1) to a child welfare agency that places children in licensed foster homes, licensed group homes, shelter care facilities approved under s. 938.22 (2) (c), and in the homes of guardians under s. 48.977 (2), the child welfare agency must pay to the department a biennial fee of $254.10.

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

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

(c) Voluntary agreements may be made only under ~~this subsection and~~ par. (a) or (b) or sub. (5) (b) ~~and~~, shall be in writing, and shall specifically state that the agreement may be terminated at any time by the parent, guardian, or Indian custodian or by the child if the child's consent to the agreement is required. In the case of an Indian child who is placed under ~~this subsection and~~ par. (a) or (b) by the voluntary agreement of the Indian child's parent or Indian custodian, the voluntary consent of the parent or Indian custodian to the placement shall be given as provided in s. 48.028 (5) (a). The child's consent to ~~the~~ an agreement under par. (a) or (b) is required whenever the child is 12 years of age or older.

(d) If a county department, the department, or the department of corrections places a child or negotiates or acts as intermediary for the placement of a child under ~~this subsection and~~ par. (a) or (b), the voluntary agreement shall also specifically

placed in the shelter care facility

state that the county department, department, or department of corrections has placement and care responsibility for the child as required under 42 USC 672 (a) (2) and has primary responsibility for providing services to the child.

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

48.63 **(1)** (b) Acting under a voluntary agreement, a child's parent, guardian, or Indian custodian, the department, the department of corrections, a county department under s. 46.215, 46.22, or 46.23, 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 a shelter care facility that the department has approved under s. 938.22 (2) (c) for use for placements under this paragraph. A voluntary agreement under this paragraph may not be used for placement in a facility other than an approved 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.

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

48.64 **(1)** DEFINITION. In this section, "agency" means the department, the department of corrections, a county department under s. 46.215, 46.22, or 46.23, or a licensed child welfare agency authorized to place children in foster homes ~~or~~, group homes, or shelter care facilities approved under s. 938.22 (2) (c) or in the homes of relatives other than a parent.

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

48.64 **(1m)** OUT-OF-HOME CARE AGREEMENTS. If an agency places a child in a foster home or group home or in the home of a relative other than a parent under a court order or places a child in a foster home ~~or~~, group home, or shelter care facility

approved under s. 938.22 (2) (c) under a voluntary agreement under s. 48.63, the agency shall enter into a written agreement with the head of the home or facility. The agreement shall provide that the agency shall have access at all times to the child and the home or facility, and that the child will be released to the agency whenever, in the opinion of the agency placing the child or the department, the best interests of the child require release to the agency. If a child has been in a foster home or group home or in the home of a relative other than a parent for 6 months or more, the agency shall give the head of the home written notice of intent to remove the child, stating the reasons for the removal. The child may not be removed from a foster home, group home, or home of a relative other than a parent before completion of the hearing under sub. (4) (a) or (c), if requested, or 30 days after the receipt of the notice, whichever is later, unless the safety of the child requires it or, in a case in which the reason for removal is to place the child for adoption under s. 48.833, unless all of the persons who have the right to request a hearing under sub. (4) (a) or (c) sign written waivers of objection to the proposed removal. If the safety of the child requires earlier removal, s. 48.19 applies. If an agency removes a child from an adoptive placement, the head of the home shall have no claim against the placing agency for the expense of care, clothing, or medical treatment.

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

48.64 **(1r)** NOTIFICATION OF SCHOOL DISTRICT. When an agency places a school–age child in a foster home ~~or~~, group home, or shelter care facility approved under s. 938.22 (2) (c) or in the home of a relative other than a parent, the agency shall notify the clerk of the school district in which the foster home, group home, shelter care facility, or home of the relative is located that a school–age child has been placed

in a foster home, group home, shelter care facility, or home of a relative in the school district.

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

48.64 **(2)** SUPERVISION OF OUT-OF-HOME CARE PLACEMENTS. Every child who is placed in a foster home ~~or~~, group home, or shelter care facility approved under s. 938.22 (2) (c) shall be under the supervision of an agency. Every child who is placed in the home of a relative other than a parent under a court order shall be under the supervision of an agency.

SECTION 14. 48.979 (1) (c) of the statutes is amended to read:

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

SECTION 15. 48.979 (2) of the statutes is amended to read:

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

POWER OF ATTORNEY

DELEGATING PARENTAL POWER

AUTHORIZED BY s. 48.979, Wis. Stats.

NAME(S) OF CHILD(REN)

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

Name, address, and date of birth of child ....

Name, address, and date of birth of child ....

Name, address, and date of birth of child ....

1 DELEGATION OF POWER TO AGENT

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

7 I delegate my parental power to:

8 Name of agent ....

9 Agent's address ....

10 Agent's telephone number(s) ....

11 Agent's e–mail address ....

12 Relationship of agent to child(ren) ....

13 The parental power I am delegating is as follows:

14 FULL

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

17 .... Full parental power regarding the care and custody of the child(ren) named
18 above

19 PARTIAL

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

22 .... The power to consent to all health care; or

23 .... The power to consent to only the following health care:

24 .... Ordinary or routine health care, excluding major surgical procedures,
25 extraordinary procedures, and experimental treatment

1 .... Emergency blood transfusion

2 .... Dental care

3 .... Disclosure of health information about the child(ren)

4 .... The power to consent to educational and vocational services

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

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

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

9 .... The power to consent to the child(ren) obtaining a motor vehicle operator's
10 license

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

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

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

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

20 THIS DOCUMENT MAY NOT BE USED TO DELEGATE THE POWER TO
21 CONSENT TO THE MARRIAGE OR ADOPTION OF THE CHILD(REN), THE
22 PERFORMANCE OR INDUCEMENT OF AN ABORTION ON OR FOR THE
23 CHILD(REN), THE TERMINATION OF PARENTAL RIGHTS TO THE
24 CHILD(REN), THE ENLISTMENT OF THE CHILD(REN) IN THE U.S. ARMED

1 FORCES OR TO PLACE THE CHILD(REN) IN A FOSTER HOME, GROUP HOME,
2 SHELTER CARE FACILITY, OR INPATIENT TREATMENT FACILITY.
3 EFFECTIVE DATE AND TERM
4 OF THIS DELEGATION
5 This Power of Attorney takes effect on .... and will remain in effect until .... If
6 no termination date is given or if the termination date given is more than one year
7 after the effective date of this Power of Attorney, this Power of Attorney will remain
8 in effect for a period of one year after the effective date, but no longer. This Power
9 of Attorney may be revoked in writing at any time by a parent who has legal custody
10 of the child(ren) and such a revocation invalidates the delegation of parental powers
11 made by this Power of Attorney, except with respect to acts already taken in reliance
12 on this Power of Attorney.
13 SIGNATURE(S) OF PARENT(S)
14 Signature of parent .... Date ....
15 Parent's name printed ....
16 Parent's address ....
17 Parent's telephone number ....
18 Parent's e–mail address ....
19 Signature of parent .... Date ....
20 Parent's name printed ....
21 Parent's address ....
22 Parent's telephone number ....
23 Parent's e–mail address ....
24 WITNESSING OF SIGNATURE(S) (OPTIONAL)
25 State of ....

1 County of ....

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

3 Signature of notary ....

4 My commission expires: ....

5 STATEMENT OF AGENT

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

13 Agent's signature .... Date ....

14 APPENDIX

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

17 .... I can be located at:

18 Address(es) ....

19 Telephone number(s) ....

20 E–mail address(es) ....

21 .... Or, by contacting:

22 Name ....

23 Address ....

24 Telephone number ....

25 E–mail address ....

.... Or, I cannot be located

SECTION 16. 253.10 (3) (c) 2. c. of the statutes is amended to read:

253.10 **(3)** (c) 2. c. That the woman has a legal right to continue her pregnancy and to keep the child; to place the child in a foster home for 6 months ~~or~~, in a group home for 15 days, or in a shelter care facility approved under s. 938.22 (2) (c) for 20 days; to petition a court for placement of the child in a foster home or group home or with a relative; or to place the child for adoption under a process that involves court approval both of the voluntary termination of parental rights and of the adoption.

SECTION 17. 938.22 (2) (c) of the statutes is amended to read:

938.22 **(2)** (c) A shelter care facility ~~shall~~ may be used for the temporary care of ~~juveniles~~ children taken into custody under s. 48.19, in need of transitional placements in emergency situations under s. 48.357 (2m), or placed in the shelter care facility by order of the court under ch. 48 and of juveniles taken into custody under s. 938.19, in need of transitional placements in emergency situations under s. 938.357 (2m), or placed in the shelter care facility by order of the court under this chapter, except that on the request of a person licensed to operate a shelter care facility the department of children and families may permit that shelter care facility to be used for voluntary placements under s. 48.63 (1) (b). The department of children and families shall review such a request based on the needs of children and juveniles in the area served by the shelter care facility and the services provided by the shelter care facility and may approve the request if it determines that the services provided by the shelter care facility would meet those needs. A shelter care facility, other than a holdover room, may not be in the same building as a facility for the detention of adults.

SECTION 18. 938.38 (2) (d) of the statutes is amended to read:

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

(END)

Barman, Mike

From: Buschman, Sara - DCF <Sara.Buschman@wisconsin.gov>
Sent: Thursday, January 16, 2014 1:10 PM
To: LRB.Legal
Subject: Draft Review: LRB -3027/4 Topic: Voluntary placements in shelter care facilities

Please Jacket LRB -3027/4 for the ASSEMBLY.