

**2019 DRAFTING REQUEST**

**Bill**

For: **Legislative Council -study cmmte 504-5723** Drafter: **ewheeler**

By: **Amber** Secondary Drafters:

Date: **9/7/2018** May Contact:

Same as LRB:

Submit via email: **YES**  
 Requester's email: **Amber.otis@legis.wisconsin.gov**  
 Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**  
**Elizabeth.Wheeler@legis.wisconsin.gov**  
**tamara.dodge@legis.wisconsin.gov**  
**sarah.walkenhorstbarber@legis.wisconsin.gov**  
**Steven.mcCarthy@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Guardianship of Children

**Instructions:**

See attached.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	ewheeler 9/7/2018	csicilia 9/12/2018			
/P1	ewheeler 9/25/2018	lparisi 10/1/2018	dwalker 9/12/2018		State S&L
/P2	ewheeler 10/5/2018	anienaja 10/8/2018	lparisi 10/1/2018		State S&L
/P3	ewheeler	anienaja	dwalker		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	10/12/2018	10/15/2018	10/8/2018		S&L
/P4	ewheeler 11/16/2018	anienaja 11/19/2018	dwalker 10/15/2018		State S&L
/1	ewheeler 12/4/2018	anienaja 12/6/2018	dwalker 11/19/2018		State S&L
/2			lparisi 12/6/2018	lparisi 2/14/2019	State S&L

FE Sent For:

<END>

At Intro

## Wheeler, Elizabeth

---

**From:** Otis, Amber  
**Sent:** Thursday, September 06, 2018 4:38 PM  
**To:** Wheeler, Elizabeth  
**Cc:** McCarthy, Steven  
**Subject:** Minor guardianships

Elizabeth –

As we discussed, please create a new bill draft for the work product of the Study Committee on Minor Guardianships using the current text of LRB-0921/P5. Then, in the new /P1 draft, please remove the following provisions:

- The addition of the cross-references to ch. 938 provisions on line 19 on page 10.
- Sections 12 and 13.
- Section 21.
- Sections 26 – 32.
- Sections 34 – 37.
- Sections 39 – 46.
- Sections 48 – 60.
- Section 63.
- Sections 72 – 74.
- Sections 79 and 80.
- Sections 87 – 90.
- Sections 92 – 95.
- Lines 12 – 16 on page 61 (unless they need to stay – we defer to LRB on this).

Please let me know if you have any questions. Otherwise, Steve and I will be in touch once we are ready to have more substantive discussions about the new (shorter!) draft.

Thank you!

Amber Otis, Staff Attorney  
Wisconsin Legislative Council  
(608) 504-5723  
[Amber.Otis@legis.wisconsin.gov](mailto:Amber.Otis@legis.wisconsin.gov)



State of Wisconsin  
2017 - 2018 LEGISLATURE

In: 9/07  
Out: 9/10 - 9/12

0241/P1  
LRB-0921/P5  
EAW:amn  
#gjs

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SA ✓  
xref  
Pwf

Regen.

1 AN ACT to repeal 48.978 (2) (e) 4., 48.978 (2) (f) 4. and 938.345 (4); to renumber  
2 and amend 54.56, 54.57 and 808.075 (4) (f) 3.; to amend 48.02 (8), 48.023  
3 (intro.), 48.023 (3), 48.023 (4), 48.09 (5), 48.14 (2) (b), 48.14 (11), 48.15, 48.185  
4 (2), 48.235 (1) (c), 48.255 (1) (cm), 48.255 (1m) (d), 48.299 (4) (a), 48.299 (4) (b),  
5 48.299 (6) (intro.), 48.299 (6) (d), 48.299 (7), 48.345 (3) (a), 48.368 (1), 48.42 (1)  
6 (d), 48.62 (2), 48.831 (1), 48.831 (1m) (e), 48.977 (2) (a), 48.977 (2) (e), 48.977 (2)  
7 (f), 48.977 (4) (b) 3., 48.977 (4) (b) 5., 48.977 (4) (b) 6., 48.977 (4) (c) 2., 48.977  
8 (4) (i), 48.977 (6) (c), 48.977 (7) (b) 3., 48.977 (7) (d) 3., 48.977 (8), 48.978 (2) (a)  
9 1., 48.978 (2) (a) 2., 48.978 (2) (a) 3., 48.978 (2) (b) 6., 48.978 (2) (b) 7., 48.978  
10 (2) (b) 8., 48.978 (2) (b) 10., 48.978 (2) (b) 11., 48.978 (2) (e) 1., 48.978 (2) (e) 2.,  
11 48.978 (2) (f) 1., 48.978 (2) (f) 2., 48.978 (2) (f) 5., 48.978 (3) (b) 2., 48.978 (3) (e)  
12 1., 48.978 (3) (e) 3., 48.978 (3) (g) 3., 48.978 (3) (g) 4., 48.978 (3) (g) 5., 48.978 (7),  
13 49.32 (1) (am), 51.30 (4) (b) 18. a., 51.30 (4) (b) 18. c., 54.01 (10), 54.10 (1), 54.52  
14 (1), 55.03 (1), 55.08 (1) (b), 55.08 (2) (a), 55.10 (4) (intro.), 115.76 (12) (b) 2.,  
15 118.125 (2) (L), 146.82 (2) (a) 9. a., 146.82 (2) (a) 9. c., 214.37 (4) (k) 1., 215.26

1 (8) (e) 1., 757.69 (1) (g) 5., 808.075 (4) (a) 11., 814.66 (1) (m), 938.02 (8), 938.255  
 2 (1) (cm), 938.34 (3) (a), 938.34 (3) (c), 938.345 (1) (e), 938.355 (6) (an) 1., 938.355  
 3 (6) (b) and 938.355 (6m) (am) 1.; and **to create** 48.235 (3) (c), 48.976, 48.977 (4)  
 4 (cm) 1m., 48.978 (2) (d) 1m., 48.981 (7) (a) 11v., 808.075 (4) (a) 9m. and 808.075  
 5 (4) (a) 13. of the statutes; **relating to:** guardianships of children.

*Analysis by the Legislative Reference Bureau*

**INTRODUCTION**

This bill grants to the court assigned to exercise jurisdiction under the Children’s Code (juvenile court) jurisdiction over all guardianships of the person for a child, and creates a new process and standards for appointing a guardian of the person for a child.

**GUARDIANSHIPS FOR CHILDREN GENERALLY**

**JURISDICTION**

Current law permits the juvenile court to appoint a guardian of the person for a child only under certain circumstances: 1) when the child does not have a living parent and a finding as to the adoptability of the child is sought; 2) when a child is found to be in need of a protection or services guardianship; or 3) when a parent wishes to have a standby guardian appointed to assume the duties and authority of guardianship on the incapacity, debilitation, or death of the parent. This bill does not change the process or standard for appointment of a guardian under these circumstances. The bill does create a new process and standards for the juvenile court to appoint a guardian of the person of the child in any other circumstances, which under current law is heard by the circuit court of jurisdiction following the same process and standards as a guardianship of an adult or of the estate of a child. This bill creates a new provision in the Children’s Code establishing a process and standards for the juvenile court to appoint a guardian of the person for a child.

This bill does not change the current process or standards for appointment of a guardian of the estate of a child, except that if the juvenile court has jurisdiction over the appointment of a guardian of the person for a child, and the court assigned to exercise probate jurisdiction (probate court) has jurisdiction over a proceeding for the appointment of a guardian of the estate of the same child, under the bill the juvenile court may order the proceedings to be consolidated and heard together by the juvenile court. The bill also provides that if a child is the subject of a pending action under the Children’s Code or Juvenile Justice Code, the court may not appoint a guardian for the person of the child until the pending action is resolved, except if the court appoints an emergency guardian for the child.

**TYPES OF GUARDIANSHIPS, POWERS AND DUTIES, LIMITATIONS.**

Under current law, a court may appoint a permanent guardian, a temporary guardian for 60 or 120 days, a standby guardian, or a successor guardian. The bill

*Analysis -  
JCC  
note*



*2*

replaces this with four types of guardianships of the person for a child: full guardianships, limited guardianships, temporary guardianships for a period of 180 or 360 days, and emergency guardianships. The bill specifies the procedures, rights, and duties for each type of guardianship. Under the bill, the juvenile court must specify in its order the type of guardianship and what specific limitations are placed on the guardianship. The bill also allows the juvenile court to appoint a successor or standby guardian.

The bill expands the duties and authority of a full guardian of a child to include the rights and responsibilities of physical custody of the child, the right to determine reasonable visitation with the child, and the right to change the residence of the child to another state. The bill also requires the guardian to notify the juvenile court immediately of any change of address of the child or guardian and to make annual reports to the juvenile court on the condition of the child. The bill specifies that the parent retains all rights and duties that are not explicitly assigned to the guardian or otherwise limited by statute or juvenile court order.

#### **PROCEDURES FOR FULL, LIMITED, OR TEMPORARY GUARDIANSHIPS**

##### ***Petition and nomination.***

Current law allows any person to petition for the appointment of a guardian for a minor. Under current law, the petition must include certain information, if known to the petitioner, such as the name and address of the proposed ward, the nature of the alleged incapacity, the scope of the proposed guardianship, and the name and address of any person nominated as guardian by the petitioner. Under current law, if one or both of the parents of a minor are suitable and willing, the court must appoint one or both as the guardian unless it finds that the appointment is not in the best interest of the child. A child may object to appointment of the parent, and a child who is 14 years of age or older or any other person may nominate a guardian.

Under the bill, any person, including a child 12 years of age or over, may petition for the appointment of a guardian for a child. The petition must contain certain information including the type of guardianship sought, the facts and circumstances establishing that a guardianship is needed, the name and address of a proposed guardian, and other information as specified in the bill. A parent or a child 12 years or older may also nominate a guardian under the bill. Under the bill, the juvenile court must appoint the person nominated as the guardian by the parent, unless the juvenile court finds that appointment of the person nominated is not in the child's best interest.

##### ***Guardian ad litem.***

Under current law, after the court receives a petition for the appointment of a guardian, it must appoint a guardian ad litem (GAL) to represent the best interests of the proposed ward. The bill requires the same of the juvenile court. Under current law, the GAL must perform specific tasks related to the guardianship proceeding, including meeting with the proposed ward and proposed guardian and informing those individuals of their rights in the proceeding. Under the bill, the GAL is required to meet with, observe, or interview the child, interview the proposed guardian, report to the juvenile court on the guardian's fitness to serve as the guardian, attend all juvenile court proceedings to represent the best interests of the

child, make reports upon the juvenile court's request, and inspect reports and records relating to the proposed guardianship.

**Hearing.**

Under current law, a hearing must be held within 90 days after the petition is filed. Any interested person, as defined by the statute, may participate in the hearing at the court's discretion. Every hearing is closed, unless opened upon motion of the proposed ward or his or her attorney. Current law also provides different procedures for appointing a temporary guardian for 60 or 120 days.

Under the bill, an initial hearing must be held within 45 days after filing the petition. At least 96 hours before the initial hearing, the proposed guardian must submit a report to the juvenile court as to his or her existing parental, guardianship, or custodial responsibilities and financial situation, and as to whether he or she is charged with or has been convicted of a crime or child abuse or neglect. Any interested person, as defined in the bill, may become a party to the hearing.

If a petition is not contested, the bill requires the juvenile court to immediately proceed to a fact-finding and dispositional hearing, unless an adjournment is requested. Under the bill, if the petition is contested or adjournment is requested, the juvenile court must set a date for a fact-finding and dispositional hearing that allows reasonable time for the parties to prepare but not more than 30 days after the initial hearing. The parties may also consent to an immediate dispositional hearing in a contested petition under the bill.

Under current law, the proposed ward has certain rights, including the right to counsel, the right to a jury trial, the right to an independent investigation, the right to payment of expenses in contesting the proceeding, the right to be present at the hearing, and the right to holding the hearing in an accessible location. The bill does not provide the right to counsel, the right to a jury trial, the right to payment of expenses in contesting the proceeding, or the right to hold the hearing in an accessible location for a child who is a proposed ward.

Under the bill, if the petition is contested, any party may request, or the court may propose on its own motion, that an investigation be conducted to determine whether the child is a proper subject for guardianship and whether the proposed guardian would be a suitable guardian for the child. The juvenile court may order the appropriate child welfare agency to conduct an investigation, to be paid for by the child's parents and the proposed guardian. The person conducting the investigation must file a report of the investigation at least 96 hours before the fact-finding and dispositional hearing.

**DISPOSITION**

Under current law, after the hearing, the court may dismiss the petition if the court finds that the elements of the petition are not proven, may appoint a guardian or coguardians, or, if the court finds that the proposed guardian is unsuitable, must set a hearing on a new proposed guardian within 30 days. The bill allows the juvenile court the same options and adds that the juvenile court may also dismiss the petition if it finds that the appointment of a guardian is not in the best interests of the child.

Under current law, the court must consider certain factors in determining who is appointed as guardian, including the following: opinions of the proposed ward and

family; conflicts of interest; whether the proposed guardian is an agent of the proposed ward under a durable power of attorney or power of attorney for health care; testamentary nomination by the proposed ward's parents; and the statement of acts by the proposed guardian.

Under the bill, the juvenile court must consider all of the following factors in determining who is appointed as guardian: 1) whether the grounds for full, limited, or temporary guardianship were proven by clear and convincing evidence; 2) any nomination of a guardian made by a parent or by the child, if 12 years of age or over, and the opinions of the parents and child as to what is in the best interests of the child; 3) whether the proposed guardian would be fit, willing, and able to serve as the guardian of the child; 4) if the child is an Indian child, the order of placement preference required for an Indian child in an Indian child custody proceeding, unless the juvenile court finds good cause for departing from that order; and 5) whether appointment of the proposed guardian is in the best interests of the child.

The bill eliminates the requirement under current law that the petitioner pay legal fees for the child's attorney and GAL if the court dismisses the petition.

#### **PROCEDURES FOR APPOINTMENT OF AN EMERGENCY GUARDIAN**

##### ***Petition and hearing.***

Under the bill, any person may petition for the appointment of an emergency guardian for a child for a period not to exceed 60 days. The juvenile court must appoint a GAL for the child as soon as possible after the filing of the petition. The GAL must attempt to meet with or observe the child before the hearing or as soon as is practicable but not later than three days after the hearing. The GAL must report to the juvenile court on the advisability of the emergency guardianship.

The bill requires the juvenile court to hold a hearing on an emergency petition as soon as possible after the filing of the petition or, for good cause shown, the court may issue a temporary order appointing an emergency guardian without a hearing, which remains in effect until a hearing is held. Any person who receives notice of the emergency guardianship petition under the bill has a right to a hearing for reconsideration or modification of an emergency guardianship.

#### **POST-APPOINTMENT PROCEDURES.**

##### ***Successor guardian.***

Under current law, after a guardian has died, been removed, or resigned, the court may appoint a successor guardian on its own motion or upon the petition of any interested person. The bill allows the juvenile court the same options and adds that it may appoint a successor guardian for a child as a part of the original appointment or any time after, even while the current guardianship is still in place.

##### ***Review of conduct of guardian.***

Under current law, if the guardian fails to perform his or her duties as a guardian or performs acts prohibited to a guardian as specified in the statute, including abusing or neglecting the ward or knowingly permitting others to do so, or failing to act in the best interests of the ward, the court can exercise its continuing jurisdiction to impose certain remedies specified in the statute, including removal of the guardian, imposing forfeitures, or entering any other order that is necessary to



compel the guardian to act in the best interest of the ward or otherwise carry out the guardian's duties. Current law requires the court to hold a hearing on a petition for the review of the conduct of a guardian within 60 days of filing the petition.

Under the bill, if the guardian abuses or neglects the child or knowingly permits others to do so, fails to disclose information that would have prevented his or her appointment as guardian, fails to follow or comply with the court's order, or otherwise fails to perform any of his or her duties as guardian, the juvenile court may exercise its continuing jurisdiction to impose certain remedies, including removal of the guardian and appointment of a successor guardian, modification of the duties and authority of the guardian, or entry of an order that may be necessary or appropriate to compel the guardian to carry out the guardian's duties. The juvenile court may also require the guardian to pay any costs of the proceeding if the guardian's conduct was egregious. The bill requires the juvenile court to hold a hearing on a petition for the review of the conduct of a guardian within 30 days of the filing of the petition.

***Modification of guardianship order.***

Current law allows modification or termination of an order for guardianship based on changed circumstances or a review of competency. Under the bill, if the juvenile court finds that there has been a substantial change in circumstances since the last order affecting the guardianship was entered and that the proposed modification would be in the best interests of the child, the juvenile court may modify a guardianship order.

***Termination of guardianship.***

Under current law, a guardianship is terminated when a court orders termination on the basis that 1) a formerly incompetent ward is found no longer incompetent and a court orders termination; 2) the ward moves to another state and a new guardian is appointed; 3) a minor ward turns 18, unless the guardianship was ordered on the basis of incompetency; 4) a minor ward whose guardianship was not ordered on the grounds of incompetency marries; or 5) the ward dies.

Under the bill, a guardianship continues until the child attains the age of 18 years unless 1) the guardianship is for a lesser period of time and that time has expired; 2) the child marries; 3) the child dies; 4) the child's residence changes from this state to another state and a guardian is appointed in the new state of residence; 5) the guardian dies, or resigns and the resignation is approved by the juvenile court, and a successor guardian is not appointed; 6) the guardian is removed for cause and a successor guardian is not appointed; or 7) the guardianship is terminated on the request of a parent or the child.

**PROTECTION OR SERVICES GUARDIANSHIPS**

Under current law, a protection or services guardianship may be ordered where a child is placed outside the home and is likely to be placed in the home of the guardian for an extended period or until the child attains the age of 18 years, it is not in the best interests of the child that a petition for termination of parental rights be filed, and the child's parent is neglecting, refusing, or unable to carry out the duties of a guardian.

A protection or services guardianship may be ordered under the current Children's Code for a child who has been adjudged to be in need of protection or

services on any grounds other than the grounds of relinquishment of custody or of not having been immunized under the law, or under the current Juvenile Justice Code for a child who has been adjudged to be in need of protection or services on the grounds of uncontrollability.

This bill expands the applicability of a protection or services guardianship to include a child who has been adjudged to be in need of protection or services under the Children's Code on the grounds of relinquishment of custody or of not having been immunized as required by law, and to a child who has been adjudged to be in need of protection or services under the Juvenile Justice Code on the grounds of truancy from home or school, being a school dropout, having committed a delinquent act while under ten years of age, or a child ten years of age or over who has been adjudged delinquent. The bill also permits such a guardianship to be ordered not only when the child's parent is neglecting, refusing, or unable to carry out the duties of a guardian but also when the child's parent is not meeting the conditions established in a juvenile court order for the safe return of the child to the home.

Under current law, service of a petition for a protection or services guardianship and notice of hearing on the petition may be made by 1st class mail, by personal service, or, if with reasonable diligence a party cannot be served by mail or by personal service, by publication of the notice in a newspaper that is likely to give notice to the parties. This bill requires the service of a petition for a protection or services guardianship to be made by certified mail or personal service.

#### STANDBY GUARDIANSHIPS

Under current law, a petition for the appointment of a standby guardian to assume the duty and authority of guardianship on the incapacity, death, or debilitation and consent of a parent of a child must be joined by each parent of the child who, with reasonable diligence, can be located. If a parent can be located, but refuses to join in the petition or indicates that he or she is unwilling or unable to exercise the duty and authority of guardianship, the petition may be filed without the other parent joining in the petition.

This bill limits that joinder requirement to each parent who has legal custody of the child. The bill also permits one parent who has legal custody of a child to file a guardianship petition without the other parent joining in the petition if that other parent fails to join in the petition or to indicate that he or she is fit, willing, and able to exercise the duty and authority of guardianship.

In addition, under current law, before the juvenile court may appoint a person as the standby guardian of a child, the juvenile court must make certain findings, including a finding 1) that there is a significant risk that the petitioner will become incapacitated or debilitated or die within two years after the petition was filed; 2) that, if a parent has refused to join in the petition, the refusal was unreasonable; and 3) that the person nominated as guardian is willing and able to act as standby guardian.

This bill changes the findings that the juvenile court must make before the juvenile court may appoint a standby guardian by 1) eliminating the two-year window for significant risk of incapacitation, debilitation, or death and instead requiring the juvenile court to find that the petitioner has a physical or mental

impairment or a physical illness, disease, or injury and that there is a significant risk that the petitioner will become incapacitated or debilitated or die as a result of that impairment, illness, disease, or injury; 2) eliminating altogether the finding that a parent's refusal to join in the petition was unreasonable; and 3) requiring a finding that a person is fit, willing, and able to act as standby guardian.

#### PROTECTIVE PLACEMENTS

Finally, under current law, the juvenile court may order a protective placement, which is a placement for the residential care and custody of an individual, for a minor 14 years of age or over who is alleged to have a developmental disability and on whose behalf a petition for guardianship has been submitted. This bill eliminates the requirement that a guardianship petition be submitted in order for a juvenile court to order a protective placement for a minor 14 years of age or over who is alleged to have a developmental disability.

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.** 48.02 (8) of the statutes is amended to read:

2           48.02 (8) "Guardian" means the person named by the court having the duty and  
3 authority of ~~guardianship~~ guardian of the person for a child under s. 48.023.

4           **SECTION 2.** 48.023 (intro.) of the statutes is amended to read:

5           **48.023 Guardianship.** (intro.) Except as limited by an order of the court  
6 under s. 48.976 (2) (c) 2., 48.977 (5) (b), or 48.978 (6) (b) 2., a person appointed by the  
7 court to be the guardian of the person for a child under this chapter has the duty and  
8 authority to make important decisions in matters having a permanent effect on the  
9 life and development of the child and the duty to be concerned about the child's  
10 general welfare, including ~~but not limited to~~ all of the following:

11           **SECTION 3.** 48.023 (3) of the statutes is amended to read:

12           48.023 (3) The right and duty of reasonable visitation of with the child and,  
13 subject to an order of a court of competent jurisdiction, the authority to determine

1 reasonable visitation with the child. The guardian's decision regarding visitation is  
2 presumed to be in the best interest of the child and, if the court reviews the decision,  
3 the petitioner has the burden of proving by clear and convincing evidence that the  
4 decision of the guardian is not in the best interest of the child.

5 **SECTION 4.** 48.023 (4) of the statutes, as affected by 2017 Wisconsin Act 185,  
6 is amended to read:

7 ~~48.023 (4)~~ The rights and responsibilities of physical custody and legal custody,  
8 which may include the right to change the residence of the child from this state to  
9 another state, except when physical custody or legal custody has been vested in  
10 another person or when the child is under the supervision of the department of  
11 corrections under s. 938.183, 938.34 <sup>1</sup>(2), (4h), (4m), or (4n), or 938.357 (3) or (4) or the  
12 supervision of a county department under s. 938.34 <sup>1</sup>(2), (4d), (4m), or (4n).

13 **SECTION 5.** 48.09 (5) of the statutes is amended to read:

14 ~~48.09 (5)~~ By the district attorney or, if designated by the county board of  
15 supervisors, by the corporation counsel, in any matter arising under s. 48.13, 48.133,  
16 48.976, or 48.977. If the county board transfers this authority to or from the district  
17 attorney on or after May 11, 1990, the board may do so only if the action is effective  
18 on September 1 of an odd-numbered year and the board notifies the department of  
19 administration of that change by January 1 of that odd-numbered year.

20 **SECTION 6.** 48.14 (2) (b) of the statutes is amended to read:

21 ~~48.14 (2)~~ (b) The appointment and removal of a guardian of the person for a  
22 child under ss. 48.427, 48.43, 48.831, 48.832, 48.839 (4) (a), 48.976, 48.977, and  
23 ~~48.978 and ch. 54~~ and for a child found to be in need of protection or services under  
24 s. 48.13 because the child is without parent or guardian.

25 **SECTION 7.** 48.14 (11) of the statutes is amended to read:

1 ~~48.14 (11)~~ Granting visitation privileges under s. ~~54.56~~ 48.976 (11).

2 SECTION 8. 48.15 of the statutes is amended to read:

3 ~~48.15~~ **Jurisdiction of other courts to determine legal custody.** Except  
4 as provided in s. ~~ss.~~ 48.028 (3) and 48.976 (2) (a) 2., nothing in this chapter deprives  
5 another court of the right to determine the legal custody of a child by habeas corpus  
6 or to determine the legal custody or guardianship of a child if the legal custody or  
7 guardianship is incidental to the determination of an action pending in that court.  
8 Except as provided in s. 48.028 (3), the jurisdiction of the court assigned to exercise  
9 jurisdiction under this chapter and ch. 938 is paramount in all cases involving  
10 children alleged to come within the provisions of ss. 48.13 and 48.14 and unborn  
11 children and their expectant mothers alleged to come within the provisions of ss.  
12 48.133 and 48.14 (5).

13 SECTION 9. 48.185 (2) of the statutes is amended to read:

14 ~~48.185 (2)~~ GUARDIANSHIP AND TERMINATION OF PARENTAL RIGHTS PROCEEDINGS. In  
15 an action under s. 48.41, venue shall be in the county where the birth parent or child  
16 resides at the time that the petition is filed. Subject to sub. (5), venue for any  
17 proceeding under s. 48.976 or 48.977 or any proceeding under subch. VIII when the  
18 child has been placed outside the home pursuant to a dispositional order under s.  
19 48.345 <sup>plan</sup> ~~or~~ 48.347, 938.34, or 938.345 shall be in the county where the dispositional  
20 order was issued, unless the child's county of residence has changed or the parent of  
21 the child has resided in a different county of this state for 6 months. In either case,  
22 the court may, upon a motion and for good cause shown, transfer the case, along with  
23 all appropriate records, to the county of residence of the child or parent.

24 SECTION 10. 48.235 (1) (c) of the statutes is amended to read:

1       ~~48.235 (1)~~ (c) The court shall appoint a guardian ad litem for any child who is  
2 the subject of a proceeding to terminate parental rights, whether voluntary or  
3 involuntary, for a child who is the subject of a contested adoption proceeding, and for  
4 a child who is the subject of a proceeding under s. ~~48.976~~, 48.977, or 48.978.

5           **SECTION 11.** 48.235 (3) (c) of the statutes is created to read:

6       ~~48.235 (3)~~ (c) In addition to any other duties and responsibilities required of  
7 a guardian ad litem, a guardian ad litem appointed for a child who is the subject of  
8 a proceeding under s. ~~48.976~~ shall do all of the following unless granted leave by the  
9 court not to do so:

10           1. Personally, or through a trained designee, meet with or observe the child,  
11 assess the appropriateness and safety of the environment of the child, and, if  
12 appropriate to the age and developmental level of the child, interview the child and  
13 determine the child's goals and concerns regarding the proposed guardianship. If the  
14 child is 12 years of age or over, the guardian ad litem shall also advise the child that  
15 he or she may request the appointment of counsel or retain counsel of his or her own  
16 choosing.

17           2. Interview the proposed guardian, personally or through a trained designee,  
18 visit the guardian's home, if appropriate, and report to the court concerning the  
19 suitability of the proposed guardian to serve as guardian of the child.

20           3. Attend all court proceedings relating to the guardianship, present evidence  
21 concerning the best interests of the child, if necessary, and make clear and specific  
22 recommendations to the court concerning the best interests of the child at every stage  
23 of the proceedings.

24           4. Report to the court on any matter that the court requests.

1           5. To the extent necessary to make recommendations to the court concerning  
2 the best interests of the child, to report to the court concerning the suitability of the  
3 proposed guardian to serve as guardian of the child and on any other matter that the  
4 court requests, and otherwise to fulfill the duties and responsibilities required of the  
5 guardian ad litem in the proceedings, inspect reports and records relating to the child  
6 and, upon presentation of necessary releases, the child's family and the proposed  
7 guardian, including law enforcement reports and records under ss. 48.396 (1) and  
8 938.396 (1) (a), court records under ss. 48.396 (2) (a) and 938.396 (2), social welfare  
9 agency records under ss. 48.78 (2) (a) and 938.78 (2) (a), abuse and neglect reports  
10 and records under s. 48.981 (7) (a) 11v., pupil records under s. 118.125 (2) (L), mental  
11 health records under s. 51.30 (4) (b) 4., and health care records under s. 146.82 (2)  
12 (a) 4. The court shall include in the order appointing the guardian ad litem an order  
13 requiring the custodian of any report or record specified in this subdivision to permit  
14 the guardian ad litem to inspect and copy the report or record on presentation by the  
15 guardian ad litem of a copy of the order. A guardian ad litem who obtains access to  
16 a report or record described in this subdivision shall keep the information contained  
17 in the report or record confidential and may use or further disclose that information  
18 only for purpose of the proceedings.

19           **SECTION 12.** 48.255 (1) (cm) of the statutes is amended to read:

20           48.255 (1) (cm) Whether the child may be subject to s. 48.028 or the federal  
21 Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may be subject to  
22 s. 48.028 or that act, the names and addresses of the child's Indian custodian, if any,  
23 and Indian tribe, if known.

24           **SECTION 13.** 48.255 (1m) (d) of the statutes is amended to read:

1           48.255 (1m) (d) Whether the unborn child, when born, may be subject to s.  
2           48.028 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the  
3           unborn child may be subject to s. 48.028 or that act, the name and address of the  
4           Indian tribe in which the unborn child may be eligible for affiliation when born, if  
5           known.

6           **SECTION 14.** 48.299 (4) (a) of the statutes is amended to read:

7           ~~48.299 (4) (a)~~ Chapters 901 to 911 shall govern the presentation of evidence at  
8           the fact-finding hearings under ss. 48.31, 48.42, 48.976, 48.977 (4) (d), and 48.978  
9           (2) (e) and (3) (f) 2.

10          **SECTION 15.** 48.299 (4) (b) of the statutes is amended to read:

11          ~~48.299 (4) (b)~~ Except as provided in s. 901.05, neither common law nor  
12          statutory rules of evidence are binding at a hearing for a child held in custody under  
13          s. 48.21, a hearing for an adult expectant mother held in custody under s. 48.213, a  
14          runaway home hearing under s. 48.227 (4), a dispositional hearing, or a hearing  
15          about changes in placement, trial reunifications, revision of dispositional orders,  
16          extension of dispositional orders, or termination of guardianship orders entered  
17          under s. 48.976, 48.977 (4) (h) 2. or (6), or 48.978 (2) (j) 2. or (3) (g). At those hearings,  
18          the court shall admit all testimony having reasonable probative value, but shall  
19          exclude immaterial, irrelevant, or unduly repetitious testimony or evidence that is  
20          inadmissible under s. 901.05. Hearsay evidence may be admitted if it has  
21          demonstrable circumstantial guarantees of trustworthiness. The court shall give  
22          effect to the rules of privilege recognized by law. The court shall apply the basic  
23          principles of relevancy, materiality, and probative value to proof of all questions of  
24          fact. Objections to evidentiary offers and offers of proof of evidence not admitted may  
25          be made and shall be noted in the record.



1           **SECTION 16.** 48.299 (6) (intro.) of the statutes is amended to read:

2           48.299 (6) (intro.) If a man who has been given notice under s. 48.27 (3) (b) 1.,  
3           48.976 (3) (c) 1., 48.977 (4) (c) 1., or 48.978 (2) (c) 1. appears at any hearing for which  
4           he received the notice, alleges that he is the father of the child, and states that he  
5           wishes to establish the paternity of the child, all of the following apply:

6           **SECTION 17.** 48.299 (6) (d) of the statutes is amended to read:

7           ~~48.299 (6) (d)~~ The court may stay the proceedings under this chapter pending  
8           the outcome of the paternity proceedings under subch. IX of ch. 767 if the court  
9           determines that the paternity proceedings will not unduly delay the proceedings  
10          under this chapter and the determination of paternity is necessary to the court's  
11          disposition of the child ~~if the child is found to be in need of protection or services~~  
12          ~~proceeding~~ or if the court determines or has reason to know that the paternity  
13          proceedings may result in a finding that the child is an Indian child and in a petition  
14          by the child's parent, Indian custodian, or tribe for transfer of the proceeding to the  
15          jurisdiction of the tribe.

16          **SECTION 18.** 48.299 (7) of the statutes is amended to read:

17          48.299 (7) If a man who has been given notice under s. 48.27 (3) (b) 1., 48.976  
18          (3) (c) 1., 48.977 (4) (c) 1., or 48.978 (2) (c) 1. appears at any hearing for which he  
19          received the notice but does not allege that he is the father of the child and state that  
20          he wishes to establish the paternity of the child or if no man to whom such notice was  
21          given appears at a hearing, the court may refer the matter to the state or to the  
22          attorney responsible for support enforcement under s. 59.53 (6) (a) for a  
23          determination, under s. 767.80, of whether an action should be brought for the  
24          purpose of determining the paternity of the child.

25          **SECTION 19.** 48.345 (3) (a) of the statutes is amended to read:

1       ~~48.345~~ **(3)** (a) The home of a parent ~~or~~, other relative, or guardian of the child,  
2       except that the judge may not designate the home of a parent ~~or~~, other relative, or  
3       guardian of the child as the child's placement if the parent ~~or~~, other relative, or  
4       guardian has been convicted under s. 940.01 of the first-degree intentional homicide,  
5       or under s. 940.05 of the 2nd-degree intentional homicide, of a parent of the child,  
6       and the conviction has not been reversed, set aside or vacated, unless the judge  
7       determines by clear and convincing evidence that the placement would be in the best  
8       interests of the child. The judge shall consider the wishes of the child in making that  
9       determination.

10       **SECTION 20.** 48.368 (1) of the statutes is amended to read:

11       ~~48.368~~ **(1)** If a petition for termination of parental rights is filed under s. 48.41  
12       or 48.415 or an appeal from a judgment terminating or denying termination of  
13       parental rights is filed during the year in which a dispositional order under s. 48.355,  
14       an extension order under s. 48.365, a voluntary agreement for placement of the child  
15       under s. 48.63, or a guardianship order under ch. 54, 2015 <sup>el 7</sup> stats., or ch. 880, 2003  
16       stats., or s. 48.976 or 48.977 ~~or ch. 54~~ is in effect, the dispositional or extension order,  
17       voluntary agreement, or guardianship order shall remain in effect until all  
18       proceedings related to the filing of the petition or an appeal are concluded.

19       **SECTION 21.** 48.42 (1) (d) of the statutes is amended to read:

20       48.42 **(1)** (d) A statement of whether the child may be subject to s. 48.028 or the  
21       federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may be  
22       subject to s. 48.028 or that act, the names of the child's Indian custodian, if any, and  
23       tribe, if known.

24       **SECTION 22.** 48.62 (2) of the statutes is amended to read:

1       ~~§~~48.62 (2) A relative, a guardian of a child, or a person delegated care and  
2 custody of a child under s. 48.979 who provides care and maintenance for the child  
3 is not required to obtain the license specified in this section. The department, county  
4 department, or licensed child welfare agency as provided in s. 48.75 may issue a  
5 license to operate a foster home to a relative who has no duty of support under s. 49.90  
6 (1) (a) and who requests a license to operate a foster home for a specific child who is  
7 either placed by court order or who is the subject of a voluntary placement agreement  
8 under s. 48.63. The department, a county department, or a licensed child welfare  
9 agency may, at the request of a guardian appointed under s. 48.976, 48.977, or  
10 48.978, or ch. 54, 2015 stats., or ch. 880, 2003 stats., license the guardian's home as  
11 a foster home for the guardian's minor ward who is living in the home and who is  
12 placed in the home by court order. Relatives with no duty of support and guardians  
13 appointed under s. 48.976, 48.977, or 48.978, or ch. 54, 2015 stats., or ch. 880, 2003  
14 stats., who are licensed to operate foster homes are subject to the department's  
15 licensing rules.

16       **SECTION 23.** 48.831 (1) of the statutes is amended to read:

17       ~~§~~48.831 (1) TYPE OF GUARDIANSHIP. This section may be used for the appointment  
18 of a guardian of a child who does not have a living parent if a finding as to the  
19 adoptability of a child is sought. Except as provided in ss. 48.977 and 48.978, ~~ch. 54~~  
20 s. 48.976 applies to the appointment of a guardian for a child who does not have a  
21 living parent for all other purposes. An appointment of a guardian of the estate of  
22 a child who does not have a living parent shall be conducted in accordance with the  
23 procedures specified in ch. 54.

24       **SECTION 24.** 48.831 (1m) (e) of the statutes is amended to read:

1 ~~48.831~~ (1m) (e) A guardian appointed under s. ~~48.976~~ or ch. 54, 2015 stats., or  
2 ch. 880, 2003 stats., whose resignation as guardian has been accepted by a court  
3 under s. ~~48.976~~ (10) or ~~54.54~~ (1), 2015 stats., or s. 880.17 (1), 2003 stats.

4 SECTION 25. 48.976 of the statutes is created to read:

5 ~~48.976~~ Appointment of guardian of the person for a child. (1)

6 DEFINITIONS. In this section:

7 (a) "Interested person" means any of the following:

8 1. For purposes of a petition for guardianship of a child, any of the following:

9 a. The child, if he or she has attained 12 years of age, and the child's guardian  
10 ad litem and counsel, if any.

11 b. The child's parent, guardian, legal custodian, and physical custodian.

12 c. Any person who has filed a declaration of paternal interest under s. 48.025,  
13 who is alleged to the court to be the father of the child, or who may, based on the  
14 statements of the mother or other information presented to the court, be the father  
15 of the child.

16 d. Any individual who is nominated as guardian or as a successor guardian.

17 e. If the child has no living parent, any individual nominated to act as fiduciary  
18 for the child in a will or other written instrument that was executed by a parent of  
19 the child.

20 f. If the child is receiving or in need of any public services or benefits, the county  
21 department or, in a county having a population of 750,000 or more, the department  
22 that is providing the services or benefits, through district attorney, corporation  
23 counsel, or other officials designated under s. 48.09.

24 g. If the child is an Indian child, the Indian child's Indian custodian and Indian  
25 tribe.

1 h. Any other person that the court may require.

2 2. For purposes of proceedings subsequent to an order for guardianship of a  
3 child, any of the following:

4 a. The child, if the child has attained 12 years of age, the child's guardian ad  
5 litem, and the child's counsel.

6 b. The child's parent and guardian.

7 c. The county of venue, through the district attorney, corporation counsel, or  
8 other official designated under s. 48.09, if the county has an interest in the  
9 guardianship.

10 d. If the child is an Indian child, the Indian child's tribe.

11 e. Any other person that the court may require.

12 (b) "Party" means the person petitioning for the appointment of a guardian for  
13 a child or any interested person other than a person who is alleged to the court to be  
14 the father of the child or who may, based on the statements of the mother or other  
15 information presented to the court, be the father of the child.

16 (2) APPOINTMENT; NOMINATION; DUTY AND AUTHORITY. (a) *Appointment*. 1. This  
17 section may be used for the appointment of a guardian of the person for a child. An  
18 appointment of a guardian of the estate of a child shall be conducted under the  
19 procedures specified in ch. 54. If the court assigned to exercise jurisdiction under this  
20 chapter has jurisdiction over a proceeding for the appointment of a guardian of the  
21 person for a child or continuing jurisdiction over such a guardianship and the court  
22 assigned to exercise probate jurisdiction has jurisdiction over a proceeding for the  
23 appointment of a guardian of the estate of the child or continuing jurisdiction over  
24 such a guardianship, the court assigned to exercise jurisdiction under this chapter  
25 may order those proceedings or guardianships to be consolidated under the

1 jurisdiction of the court assigned to exercise jurisdiction under this chapter. Upon  
2 such consolidation, the court assigned to exercise jurisdiction under this chapter  
3 shall order all records relating to the guardianship of the estate of the child to be  
4 transferred to the court assigned to exercise jurisdiction under this chapter and that  
5 court shall retain those records as required under SCR chapter 72. This section does  
6 not prohibit a person from petitioning a court under s. 48.831, 48.977, or 48.978 for  
7 the appointment of a guardian of the person for a child.

8 2. If the proposed ward is the subject of an action pending under s. 48.13 or  
9 48.14 or ch. 938, any subsequent petition filed under this section shall be heard by  
10 the court authorized to exercise jurisdiction over the pending action. The court shall  
11 stay a guardianship proceeding for the appointment of a full, limited, or temporary  
12 guardian of the person for a child under par. (c) 1., 2., or 3. until the action pending  
13 under s. 48.13 or 48.14 or ch. 938 is resolved. The court may appoint an emergency  
14 guardian under sub. (5) while an action is pending under s. 48.13 or 48.14 or ch. 938  
15 if the court finds that the best interests of the child require the immediate  
16 appointment of a guardian.

17 3. A petition filed under this section may not change an order entered pursuant  
18 to a finding under s. 48.13, 938.12, or 938.13, or an order transferring guardianship  
19 to an agency pursuant to s. 48.427 (3m).

20 4. The court may appoint coguardians of the person for a child under this  
21 section, subject to any conditions that the court imposes. Unless the court orders  
22 otherwise, any decision concerning the child must be concurred in by all coguardians  
23 or is void.

24 (b) *Nomination by parent or child.* 1. A parent may nominate a guardian and  
25 successor guardian for any of his or her children who is in need of guardianship,

1 including a nomination by will. Subject to the rights of a surviving parent, the court  
2 shall appoint the person nominated as guardian or successor guardian, unless the  
3 court finds that appointment of the person nominated is not in the child's best  
4 interests.

5 2. A child who has attained 12 years of age may nominate his or her own  
6 guardian, but if the child is outside of the state or if other good reason exists, the court  
7 may dispense with the child's right of nomination. If neither parent of a child who  
8 has attained 12 years of age is fit, willing, and able to carry out the duties of a  
9 guardian, the court may appoint the nominee of the child.

10 3. In determining who is appointed as guardian, the court shall consider the  
11 nominations of the parents and child and the opinions of the parents and child as to  
12 what is in the best interests of the child, but the best interests of the child as  
13 determined by the court shall control in making the determination when those  
14 nominations and opinions are in conflict with those best interests.

15 (c) *Duties and authority of guardian.* 1. 'Full guardianship.' Subject to subd.  
16 5., a guardian appointed under sub. (3) (g) 2. shall have all of the duties and authority  
17 specified in s. 48.023, unless those duties and that authority are limited under subd.  
18 2. A guardian appointed under sub. (3) (g) 2. shall also immediately notify the court  
19 that appointed the guardian of any change in the address of the guardian or child and  
20 shall make an annual report to that court on the condition of the child. The report  
21 shall include the location of the child, the health condition of the child, and any  
22 recommendations regarding the child.

23 2. 'Limited guardianship.' The court may order that the duties and authority  
24 of a guardian appointed under sub. (3) (g) 2. be limited. The duties and authority of  
25 a limited guardian shall be as specified by the order of appointment under sub. (3)

1 (g) 2. The duties and authority of a full guardian shall apply to a limited guardian  
2 to the extent relevant to the duties or authority of the limited guardian, except as  
3 limited by the order of appointment. The court may limit the authority of a guardian  
4 with respect to any power to allow the parent to retain such power to make decisions  
5 as is within the parent's ability to exercise effectively and may limit the physical  
6 custody of a guardian to allow shared physical custody with the parent if shared  
7 physical custody is in the best interests of the child. The court shall set an expiration  
8 date for a limited guardianship order, which may be extended for good cause shown.

9 3. 'Temporary guardianship.' If it is demonstrated to the court that a child's  
10 particular situation, including the inability of the child's parent to provide for the  
11 care, custody, and control of the child for a temporary period of time, requires the  
12 appointment of a temporary guardian, the court may appoint a temporary guardian  
13 as provided under sub. (4).

14 4. 'Emergency guardianship.' If it is demonstrated to the court that the welfare  
15 of a child requires the immediate appointment of an emergency guardian, the court  
16 may appoint an emergency guardian as provided under sub. (5).

17 5. 'Powers of guardian.' The parent retains all rights and duties accruing to the  
18 parent as a result of the parent-child relationship that are not assigned to the  
19 guardian or otherwise limited by statute or court order. A guardian acting on behalf  
20 of a child may exercise only those powers that the guardian is authorized to exercise  
21 by statute or court order. The court may authorize a guardian to exercise only those  
22 powers that are necessary to provide for the care, custody, and control of the child and  
23 to exercise those powers in a manner that is appropriate to the child.



1           **(3) PROCEDURES.** (a) *Petition; who may file.* 1. Except as provided in subd. 2.,  
2 any person, including a child 12 years of age or over on his or her own behalf, may  
3 petition for the appointment of a guardian for a child.

4           2. If there is an action pending under s. 48.13, 48.14 (1), (3), (5), or (12), 938.12,  
5 938.13, or 938.135, a petition under this subsection may be filed by any party to the  
6 pending action if the petition is consistent with the child's permanency plan and does  
7 not seek to change the requirements of any court order issued under s. 48.21 (5) or  
8 (6), 48.213 (4), 48.355, 48.357, 48.363, 48.365, 48.427 (3m), 48.43, 48.977, 938.21 (5)  
9 or (6), 938.355, 938.357, or 938.365.

10           (b) *Petition; form and content.* A petition for guardianship may include an  
11 application for protective placement or protective services or both under ch. 55. The  
12 petition shall be entitled "In the interest of .... (child's name), a person under the age  
13 of 18" and shall state all of the following, if known to the petitioner:

14           1. The name, date of birth, and address of the child.

15           2. The names and addresses of the petitioner, the child's parents, current  
16 guardian, and legal custodian, if any, the proposed guardian, any proposed successor  
17 guardians, and all other interested persons.

18           3. Whether the petitioner is requesting a full guardianship, a limited  
19 guardianship, a temporary guardianship, or an emergency guardianship.

20           4. If the petitioner is requesting a full guardianship, the facts and  
21 circumstances establishing that the child's parents are unfit, unwilling, or unable to  
22 provide for the care, custody, and control of the child or other compelling facts and  
23 circumstances demonstrating that a full guardianship is necessary.

24           5. If the petitioner is requesting a limited guardianship, the facts and  
25 circumstances establishing that the child's parents need assistance in providing for

1 the care, custody, and control of the child and a statement of the specific duties and  
2 authority under s. 48.023 sought by the petitioner for the proposed guardian and the  
3 specific parental rights and duties that the petitioner seeks to have transferred.

4 6. If the petitioner is requesting a temporary guardianship, the facts and  
5 circumstances establishing that the child's particular situation, including the  
6 inability of the child's parents to provide for the care, custody, and control of the child  
7 for a temporary period of time, requires the appointment of a temporary guardian;  
8 the reasons for the appointment of a temporary guardian; and the powers requested  
9 for the temporary guardian.

10 7. If the petitioner is requesting an emergency guardianship, the facts and  
11 circumstances establishing that the welfare of the child requires the immediate  
12 appointment of an emergency guardian.

13 8. The facts and circumstances establishing that the proposed guardian is fit,  
14 willing, and able to serve as the child's guardian.

15 9. The information required under s. 822.29 (1).

16 10. Whether the child may be subject to s. 48.028 or the federal Indian Child  
17 Welfare Act, 25 USC 1901 to 1963, and, if the child may be subject to s. 48.028 or that  
18 act, the names and addresses of the child's Indian custodian, if any, and Indian tribe,  
19 if known.

20 11. If the petitioner knows or has reason to know that the child is an Indian  
21 child, reliable and credible information showing that continued custody of the child  
22 by the child's parent or Indian custodian is likely to result in serious emotional or  
23 physical damage to the child under s. 48.028 (4) (d) 1. and that active efforts under  
24 s. 48.028 (4) (d) 2. have been made to prevent the breakup of the Indian child's family  
25 and that those efforts have proved unsuccessful and, if the proposed guardianship

1 would change the placement of the child from the home of his or her parent or Indian  
2 custodian to a placement outside that home, a statement as to whether the new  
3 placement is in compliance with the order of placement preference under s. 48.028  
4 (7) (b) or, if applicable, s. 48.028 (7) (c) and, if the new placement is not in compliance  
5 with that order, specific information showing good cause, as described in s. 48.028  
6 (7) (e), for departing from that order.

7 12. Whether the petitioner is aware of any guardianship or other related  
8 proceeding involving the child that is pending in another court and, if so, the details  
9 of the guardianship, termination of parental rights, or related proceeding.

10 13. Whether the child has been adjudged to be in need of protection or services  
11 under s. 48.13 or 938.13 or if a case is pending or if the child has been adjudged  
12 delinquent or if a case is pending under s. 938.12, or is subject to a court order under  
13 s. 48.21, 48.345, 48.357, 48.363, 48.365, 938.21, 938.34, 938.345, 938.357, 938.363,  
14 or 938.365.

15 (c) *Service of petition and notice.* 1. Except as provided in subd. 3., the  
16 petitioner shall cause the petition and notice of the time and place of the hearing  
17 under par. (e) to be served at least 7 days before the time of the hearing upon all  
18 interested persons, unless notice is specifically waived by an interested person or by  
19 the court for good cause shown.

20 2. A notice shall be in writing. A copy of the petition and any other required  
21 document shall be attached to the notice. Except as provided in subd. 3., notice shall  
22 be delivered in person or by certified mail. Notice is considered to be given by proof  
23 of personal delivery, by proof that the notice was sent by certified mail to the  
24 last-known address of the recipient, or, if the recipient is an adult, by the written  
25 admission of service of the person served.

1           3. If the petitioner knows or has reason to know that the child is an Indian child,  
2 notice to the Indian child's parent, Indian custodian, and Indian tribe shall be  
3 provided in the manner specified in s. 48.028 (4) (a). No hearing may be held under  
4 par. (e) until at least 10 days after receipt of the notice by the Indian child's parent,  
5 Indian custodian, and Indian tribe or, if the identity or location of the Indian child's  
6 parent, Indian custodian, or tribe cannot be determined, until at least 15 days after  
7 receipt of the notice by the U.S. secretary of the interior. On request of the Indian  
8 child's parent, Indian custodian, or Indian tribe, the court shall grant a continuance  
9 of up to 20 additional days to enable the requester to prepare for the hearing.

10           (d) *Statement by proposed guardian.* At least 96 hours before the hearing under  
11 par. (e), the proposed guardian shall submit to the court a sworn and notarized  
12 statement as to the number of persons for whom the proposed guardian is  
13 responsible, whether as a parent, guardian, or legal custodian, as to the proposed  
14 guardian's income, assets, debts, and living expenses, and as to whether the  
15 proposed guardian is currently charged with or has been convicted of a crime or has  
16 been determined under s. 48.981 (3) (c) to have abused or neglected a child. If the  
17 proposed guardian is currently charged with or has been convicted of a crime or has  
18 been determined under s. 48.981 (3) (c) to have abused or neglected a child, he or she  
19 shall include in the sworn and notarized statement a description of the  
20 circumstances surrounding the charge, conviction, or determination.

21           (e) *Hearing.* 1. The initial hearing on a petition for guardianship, other than  
22 a petition for emergency guardianship under sub. (5), shall be heard within 45 days  
23 after the filing of the petition. At the hearing the court shall first determine whether  
24 any party wishes to contest the petition. If the petition is not contested, the court  
25 shall immediately proceed to a fact-finding and dispositional hearing, unless an

1 adjournment is requested. If the petition is contested and all parties consent, the  
2 court may proceed immediately to a fact-finding and dispositional hearing. If all  
3 parties do not consent or if an adjournment is requested, the court shall set a date  
4 for a fact-finding and dispositional hearing that allows reasonable time for the  
5 parties to prepare but is not more than 30 days after the initial hearing. The court  
6 shall hold the fact-finding and dispositional hearing at the time specified or set by  
7 the court under this subdivision, at which any party may present evidence, including  
8 expert testimony, and argument relating to the allegations in the petition.

9         2. If the petition is contested, any party may request, or the court may propose  
10 on its own motion, that an investigation be conducted to determine whether the child  
11 is a proper subject for guardianship and whether the proposed guardian would be a  
12 suitable guardian for the child. If the court determines that such an investigation  
13 is necessary and that the welfare of the child demands such an investigation, the  
14 court may order the county department or an agency under contract with the county,  
15 or, in a county having a population of 750,000 or more, the department or an agency  
16 under contract with the department to conduct such an investigation. The person  
17 conducting the investigation shall file a report of its investigation with the court at  
18 least 96 hours before the fact-finding and dispositional hearing. The parents of the  
19 child and the proposed guardian shall reimburse the person conducting the  
20 investigation for the cost of the investigation according to a fee schedule established  
21 by the department based on ability to pay.

22         3. The proposed guardian and any proposed successor guardian shall be  
23 physically present at the hearing unless the court excuses the attendance of either  
24 or, for good cause shown, permits attendance by telephone. The child is not required  
25 to attend the hearing, but if the child has nominated the proposed guardian, the child

1 shall provide to his or her guardian ad litem sufficient information for the guardian  
2 ad litem to advise the court whether the nomination is in the best interests of the  
3 child.

4 4. If a man who has been given notice under par. (c) 1. appears at the hearing,  
5 alleges that he is the father of the child, and states that he wishes to establish the  
6 paternity of the child, s. 48.299 (6) applies. The court may order a temporary  
7 guardianship under sub. (4) pending the outcome of the paternity proceedings.

8 (f) *Dispositional factors.* In determining the appropriate disposition under this  
9 section, the court shall consider all of the following:

10 1. Whether the grounds for full, limited, or temporary guardianship were  
11 proven by clear and convincing evidence.

12 2. Any nominations made under sub. (2) (b) 1. or 2. and the opinions of the  
13 parents and child as to what is in the best interests of the child, but the best interests  
14 of the child as determined by the court shall control in making the determination  
15 when those nominations and opinions are in conflict with those best interests.

16 3. Whether the proposed guardian would be fit, willing, and able to serve as the  
17 guardian of the child.

18 4. If the child is an Indian child, the order of placement preference under s.  
19 48.028 (7) (b) or, if applicable, s. 48.028 (7) (c), unless the court finds good cause, as  
20 described in s. 48.028 (7) (e), for departing from that order.

21 5. Whether appointment of the proposed guardian as the child's guardian is in  
22 the best interests of the child.

23 (g) *Disposition.* At the conclusion of the hearing under par. (e), the court shall  
24 grant one of the following dispositions, unless the court adjourns the hearing under  
25 par. (h):

1           1. A disposition dismissing the petition if the court finds that the petitioner has  
2 not proved the allegations in the petition by clear and convincing evidence or  
3 determines that appointment of the proposed guardian as the child's guardian is not  
4 in the best interests of the child. Dismissal of a petition under this subdivision does  
5 not preclude the court from referring the child to the intake worker for an intake  
6 inquiry under s. 48.24 or from acting as an intake worker at the court's discretion  
7 under s. 48.10.

8           2. A disposition ordering that the proposed guardian be appointed as the child's  
9 full guardian under sub. (2) (c) 1., limited guardian under sub. (2) (c) 2., or temporary  
10 guardian under sub. (2) (c) 3., if the court finds that the petitioner has proved the  
11 allegations in the petition by clear and convincing evidence and determines that such  
12 an appointment is in the best interests of the child. The disposition may also  
13 designate an amount of support to be paid by the child's parents and, subject to sub.  
14 (12), may include reasonable rules of parental visitation, which rules the court shall  
15 determine in accordance with the factors specified in s. 767.41 (5), as applicable. If  
16 the court appoints the proposed guardian as the child's guardian, the court shall  
17 issue letters of guardianship to the guardian. A dispositional order under this  
18 section may not change the placement of a child under the supervision of a court  
19 pursuant to s. 48.13, 48.14 (1), (3), (5), or (12), 938.12, 938.13, or 938.135.

20           (h) *Adjournment; proposed guardian unfit or not in best interests.* If at the  
21 conclusion of the hearing under par. (e) the court finds that the petitioner has proved  
22 the allegations in the petition, other than the allegation specified in par. (b) 8., by  
23 clear and convincing evidence, but that the proposed guardian is not fit, willing, and  
24 able to serve as the guardian of the child, or if the court finds that the petitioner has  
25 so proved all of the allegations in the petition, but that appointment of the proposed

1 guardian as the child's guardian is not in the best interests of the child, the court may,  
2 in lieu of granting a disposition dismissing the petition under par. (g) 1., adjourn the  
3 hearing for not more than 30 days, request the petitioner or any other party to  
4 nominate a new proposed guardian, and order the guardian ad litem to report to the  
5 court concerning the suitability of the new proposed guardian to serve as the  
6 guardian of the child.

7 (4) TEMPORARY GUARDIANSHIPS. (a) *Duration and extent of authority.* The court  
8 may appoint a temporary guardian for a child for a period not to exceed 180 days,  
9 except that the court may extend this period for good cause shown for one additional  
10 180-day period. The court's determination and order appointing the temporary  
11 guardian shall specify the authority of the temporary guardian, which shall be  
12 limited to those acts that are reasonably related to the reasons for the appointment  
13 that are specified in the petition for temporary guardianship. The authority of the  
14 temporary guardian is limited to the performance of those acts stated in the order  
15 of appointment.

16 (b) *Procedures for appointment.* A petition for the appointment of a temporary  
17 guardian shall be heard in the same manner and is subject to the same requirements  
18 as provided in this section for the appointment of a full or limited guardian.

19 (c) *Cessation of powers.* The duties and powers of the temporary guardian cease  
20 upon the expiration of the period specified in par. (a), or the termination as  
21 determined by the court of the situation of the child that was the cause of the  
22 temporary guardianship. Upon cessation of a temporary guardianship, the  
23 temporary guardian shall file with the court any report that the court requires.

24 (5) EMERGENCY GUARDIANSHIPS. (a) *Duration and extent of authority.* The court  
25 may appoint an emergency guardian for a child for a period not to exceed 60 days.



1 The court's determination and order appointing the emergency guardian shall  
2 specify the authority of the emergency guardian and shall be limited to those acts  
3 that are reasonably related to the reasons for the appointment that are specified in  
4 the petition for emergency guardianship. The authority of the emergency guardian  
5 is limited to the performance of those acts stated in the order of appointment.

6 (b) *Procedures for appointment.* All of the following procedures apply to the  
7 appointment of an emergency guardian:

8 1. Any person may petition for the appointment of an emergency guardian for  
9 a child. The petition shall contain the information required under sub. (3) (b) and  
10 shall specify the reasons for the appointment of an emergency guardian and the  
11 powers requested for the emergency guardian.

12 2. The petitioner shall give notice of the petition and of the time and place of  
13 the hearing under subd. 4. to the child, if 12 years of age or over, the child's guardian  
14 ad litem, and the child's counsel, if any; the child's parents, guardian, and legal  
15 custodian; and the person nominated as emergency guardian. The notice and a copy  
16 of the petition shall be served as soon after the filing of the petition as possible, shall  
17 be served by the most practical means possible, including personal service or service  
18 by electronic mail or telephone, and shall include notice of the right to request the  
19 appointment of counsel or to retain counsel of the party's own choosing and of the  
20 right to petition for reconsideration or modification of the emergency guardianship  
21 under subd. 5. If the petitioner serves notice of the hearing after the hearing is  
22 conducted and the court has entered an order, the petitioner shall include the court's  
23 order with the notice of the hearing.

24 3. The court shall appoint a guardian ad litem for the child as soon as possible  
25 after the filing of the petition. The court shall attempt to appoint the guardian ad

1 litem before the hearing on the petition, but may appoint the guardian ad litem after  
2 the hearing if the court finds that exigent circumstances require the immediate  
3 appointment of an emergency guardian. The guardian ad litem shall attempt to meet  
4 with or observe the child before the hearing or as soon as is practicable after the  
5 hearing, but not later than 3 calendar days after the hearing. The guardian ad litem  
6 shall report to the court on the advisability of the emergency guardianship at the  
7 hearing or, if not appointed until after the hearing, not later than 7 calendar days  
8 after the hearing.

9 4. The court shall hold a hearing on the emergency guardianship petition as  
10 soon as possible after the filing of the petition or, for good cause shown, may issue a  
11 temporary order appointing an emergency guardian without a hearing which shall  
12 remain in effect until a hearing is held on the emergency guardianship petition. If  
13 appointed prior to the hearing, the guardian ad litem shall attend the hearing in  
14 person or by telephone.

15 5. If the court appoints an emergency guardian, any person specified in subd.  
16 2. may petition for reconsideration or modification of the emergency guardianship  
17 and the court shall hold a rehearing on the issue of appointment of the emergency  
18 guardian within 30 calendar days after the filing of the petition.

19 6. If the court determines that the welfare of the child does not require the  
20 immediate appointment of an emergency guardian, the court may dismiss the  
21 petition. Dismissal of a petition under this subdivision does not preclude the court  
22 from referring the child to the intake worker for an intake inquiry under s. 48.24 or  
23 from acting as an intake worker at the judge's discretion under s. 48.10.

24 (c) *Immunity.* An emergency guardian of a child is immune from civil liability  
25 for his or her acts or omissions in performing the duties of emergency guardianship

1 if he or she performs the duties in good faith, in the best interests of the child, and  
2 with the degree of diligence and prudence that an ordinarily prudent person  
3 exercises in his or her own affairs.

4 (d) *Cessation of powers.* The duties and powers of the emergency guardian  
5 cease upon the expiration of the period specified in par. (a), or the termination as  
6 determined by the court of the situation of the child that was the cause of the  
7 emergency guardianship. Upon cessation of an emergency guardianship, the  
8 emergency guardian shall file with the court any report that the court requires.

9 (6) **STANDBY GUARDIANSHIP.** A petition for the appointment of a standby  
10 guardian of the person for a child to assume the duty and authority of guardianship  
11 on the incapacity, death, or debilitation and consent, of the child's parent shall be  
12 brought under s. 48.978.

13 (7) **SUCCESSOR GUARDIAN.** (a) *Appointment; original petition or during*  
14 *guardianship.* 1. As part of a petition for the original appointment of a guardian of  
15 a child or at any time after that appointment, a person may petition for the  
16 appointment of one or more successor guardians of the child to assume the duty and  
17 authority of full, limited, or temporary guardianship in the event of an occurrence  
18 specified in subd. 2. Except as provided in par. (b), if the petition for the appointment  
19 of a successor guardian is brought after the original appointment of a guardian, the  
20 petition shall be heard in the same manner and subject to the same requirements as  
21 provided under this section for an original appointment of a guardian.

22 2. After hearing, the court may designate one or more successor guardians  
23 whose appointment shall become effective immediately upon the death,  
24 unwillingness or inability to act, resignation, or removal by the court of the initially  
25 appointed guardian or during a period, as determined by the initially appointed

1 guardian, when the initially appointed guardian is temporarily unable to fulfill his  
2 or her duties, including during an extended vacation or illness. The powers and  
3 duties of the successor guardian shall be the same as those of the initially appointed  
4 guardian. The successor guardian shall receive a copy of the court order establishing  
5 or modifying the initial guardianship and of the order designating the successor  
6 guardian. Upon the occurrence of an event specified in this subdivision, the  
7 successor guardian shall so notify the court and request the court to issue new letters  
8 of guardianship. Upon notification, the court shall issue new letters of guardianship  
9 that specify that the successor guardianship is permanent or that specify the period  
10 for a temporary successor guardianship.

11 (b) *Appointment; when no guardian.* 1. If a guardian dies, is removed by order  
12 of the court, or resigns and the resignation is accepted by the court, the court, on its  
13 own motion or upon petition of any interested person, may appoint a competent and  
14 suitable person as successor guardian. The court may, upon request of any interested  
15 person or on its own motion, direct that the petition or motion for the appointment  
16 of a successor guardian be heard in the same manner and subject to the same  
17 requirements as provided under this section for an original appointment of a  
18 guardian.

19 2. If the appointment under subd. 1. is made without hearing, the successor  
20 guardian shall provide notice to all interested persons of the appointment, the right  
21 to request the appointment of counsel or to retain counsel of the interested person's  
22 own choosing, and the right to petition for reconsideration of the appointment of the  
23 successor guardian. The notice shall be served personally or by mail not later than  
24 7 days after the appointment.

1           **(8) MODIFICATION OF GUARDIANSHIP ORDER.** (a) Any interested person or other  
2 person approved by the court may request a modification of a guardianship order  
3 entered under this subsection or sub. (3) (g) 2. or the court may, on its own motion,  
4 propose such a modification. The request or motion shall set forth in detail the  
5 nature of the proposed modification, shall allege facts sufficient to show that there  
6 has been a substantial change in circumstances since the last order affecting the  
7 guardianship was entered and that the proposed modification would be in the best  
8 interests of the child, and shall allege any other information that affects the  
9 advisability of the court's disposition.

10           (b) The court shall hold a hearing on the matter prior to any modification of the  
11 guardianship order if the request or motion indicates that new information is  
12 available that affects the advisability of the court's guardianship order, unless  
13 written waivers of objections to the modification are signed by all interested persons  
14 and the court approves the waivers.

15           (c) If a hearing is to be held, the person requesting or proposing the modification  
16 shall notify all interested persons at least 7 days prior to the hearing of the date,  
17 place, and purpose of the hearing. A copy of the request or proposal shall be attached  
18 to the notice. The court may order a modification if, at the hearing, the court finds  
19 that the person proposing the modification has proved by clear and convincing  
20 evidence that there has been a substantial change in circumstances and determines  
21 that a modification would be in the best interests of the child.

22           **(9) REVIEW OF CONDUCT OF GUARDIAN.** (a) *Continuing jurisdiction of court.* The  
23 court that appointed the guardian of a child has continuing jurisdiction over the  
24 guardian.

1           (b) *Cause for court action against a guardian.* The court may impose a remedy  
2 under par. (d) if a guardian of a child does any of the following:

- 3           1. Abuses or neglects the child or knowingly permits others to do so.
- 4           2. Fails to disclose information specified in sub. (3) (d) that would have  
5 prevented appointment of the person as guardian.
- 6           3. Fails to follow or comply with the court's order.
- 7           4. Otherwise fails to perform any of his or her duties as a guardian under s.  
8 48.023.

9           (c) *Procedure.* Any interested person or other person approved by the court may  
10 file a petition requesting a review of the conduct of a guardian or the court, on its own  
11 motion, may propose such a review. The request or motion shall allege facts  
12 sufficient to show cause under par. (b) for the court to impose a remedy under par.  
13 (d). The court shall hold a hearing on the request or motion not more than 30 days  
14 after the filing of the request or proposal. Not less than 7 days before the date of the  
15 hearing, the person requesting or proposing the review shall provide notice of the  
16 hearing to the child, his or her or parents, the guardian, and any other persons  
17 required by the court. A copy of the request or motion shall be attached to the notice.

18           (d) *Remedies of the court.* If after hearing the court finds by clear and  
19 convincing evidence cause as specified in par. (b) to order a remedy under this  
20 paragraph, the court may do any of the following:

- 21           1. Remove the guardian.
- 22           2. Remove the guardian and appoint a successor guardian.
- 23           3. Enter any other order that may be necessary or appropriate to compel the  
24 guardian to carry out the guardian's duties, including an order setting reasonable  
25 rules of visitation with the child.

1           4. Modify the duties and authority of the guardian.

2           5. Require the guardian to pay any costs of the proceeding, including costs of  
3 service and attorney fees, if the court finds that the guardian's conduct was  
4 egregious.

5           **(10) TERMINATION OF GUARDIANSHIP.** (a) *Term of guardianship.* A guardianship  
6 under this section shall continue until the child attains the age of 18 years unless any  
7 of the following occurs:

8           1. The guardianship is for a lesser period of time and that time has expired.

9           2. The child marries.

10          3. The child dies.

11          4. The child's residence changes from this state to another state and a guardian  
12 is appointed in the new state of residence.

13          5. The guardian dies, or resigns and the resignation is accepted by the court,  
14 and a successor guardian is not appointed.

15          6. The guardian is removed for cause under sub. (9) (d) 1. and a successor  
16 guardian is not appointed.

17          7. The court terminates the guardianship on the request of a parent of the child  
18 or the child under par. (b).

19          8. The court terminates the guardianship upon the adoption of the child.

20          (b) *Termination on request of parent or child.* 1. A parent of the child or the  
21 child may file a petition requesting that a guardianship order entered under sub. (3)  
22 (g) 2., (4), (5), or (7) be terminated. The petition shall allege facts sufficient to show  
23 that there has been a substantial change in circumstances since the last order  
24 affecting the guardianship was entered, that the parent is fit, willing, and able to

1 carry out the duties of a guardian, and that termination of the guardianship would  
2 be in the best interests of the child.

3 2. The court shall hold a hearing on the petition unless written waivers of  
4 objections to termination of the guardianship are signed by all interested persons  
5 and the court approves the waivers.

6 3. If a hearing is to be held, by no less than 7 days before the date of the hearing,  
7 the parent or child requesting the termination shall provide notice of the hearing to  
8 the child, the child's parents, the guardian, and any other persons required by the  
9 court. A copy of the request or proposal shall be attached to the notice. The court  
10 shall terminate the guardianship if the court finds, by clear and convincing evidence,  
11 that the parent has remedied the unfitness, unwillingness, or inability to provide for  
12 the care, custody, and control of the child or other compelling facts and circumstances  
13 on which the guardianship was granted and that he or she is now fit, willing, and able  
14 to carry out the duties of a guardian and the court determines that termination of  
15 the guardianship would be in the best interests of the child.

16 **SECTION 26.** 48.977 (2) (a) of the statutes is amended to read:

17 48.977 (2) (a) That the child has been adjudged to be in need of protection or  
18 services under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), or  
19 (11m) or 938.13 (4), or has been adjudged delinquent under s. 938.12, and been  
20 placed, or continued in a placement, outside of his or her home pursuant to one or  
21 more court orders under s. 48.345, 48.357, 48.363, 48.365, 938.34, 938.345, 938.357,  
22 938.363, or 938.365 ~~or~~, that the child has been so adjudged and placement of the child  
23 in the home of a guardian under this section has been recommended under s. 48.33  
24 (1) or 938.33 (1), or that the child has had a guardian of the person appointed for him



1 or her under ch. 54, 2015 stats., or ch. 880, 2003 stats., and is placed in the home of  
2 the guardian.

3 **SECTION 27.** 48.977 (2) (e) of the statutes is amended to read:

4 48.977 (2) (e) That the child's parent is neglecting, refusing, or unable to carry  
5 out the duties of a guardian or is not meeting the conditions established in the court  
6 order described in par. (a) for the safe return of the child to the home or, if the child  
7 has 2 parents, both parents are neglecting, refusing or unable to carry out the duties  
8 of a guardian those duties or are not meeting those conditions.

9 **SECTION 28.** 48.977 (2) (f) of the statutes is amended to read:

10 48.977 (2) (f) That the agency primarily responsible for providing services to  
11 the child under a court order has made reasonable efforts to make it possible for the  
12 child to return to his or her home, while assuring that the child's health and safety  
13 are the paramount concerns, but that reunification of the child with the child's  
14 parent or parents is unlikely or contrary to the best interests of the child and that  
15 further reunification efforts are unlikely to be made or are contrary to the best  
16 interests of the child or that the agency primarily responsible for providing services  
17 to the child under a court order has made reasonable efforts to prevent the removal  
18 of the child from his or her home, while assuring the child's health and safety, but that  
19 continued placement of the child in the home would be contrary to the welfare of the  
20 child, except that the court is not required to find that the agency has made those  
21 reasonable efforts with respect to a parent of the child if any of the circumstances  
22 specified in s. 48.355 (2d) (b) 1. to 5. applies to that parent. The court shall make the  
23 findings specified in this paragraph on a case-by-case basis based on circumstances  
24 specific to the child and shall document or reference the specific information on  
25 which those findings are based in the guardianship order. A guardianship order that

1 merely references this paragraph without documenting or referencing that specific  
2 information in the order or an amended guardianship order that retroactively  
3 corrects an earlier guardianship order that does not comply with this paragraph is  
4 not sufficient to comply with this paragraph. This paragraph does not apply to a  
5 child who is placed in the home of a guardian under ch. 54, 2009 stats., or ch. 880,  
6 2003 stats., and who is not receiving services from an agency under a court order.

7 **SECTION 29.** 48.977 (4) (b) 3. of the statutes is amended to read:

8 48.977 (4) (b) 3. The date on which the child was adjudged in need of protection  
9 or services under s. 48.13 (1), (2), (3), (3m), (4), (4m), (5), (8), (9), (10), (10m), (11), or  
10 (11m) or 938.13 (4), or was adjudicated delinquent under s. 938.12, and the dates on  
11 which the child has been placed, or continued in a placement, outside of his or her  
12 home pursuant to one or more court orders under s. 48.345, 48.357, 48.363, 48.365,  
13 938.34, 938.345, 938.357, 938.363, or 938.365; or, if the child has been so adjudged,  
14 but not so placed, the date of the report under s. 48.33 (1) or 938.33 (1) in which  
15 placement of the child in the home of the person is recommended; or, if the child has  
16 had a guardian of the person appointed for him or her under ch. 54, 2009 stats., or  
17 ch. 880, 2003 stats., the date on which the child was placed in the home of the  
18 guardian.

19 **SECTION 30.** 48.977 (4) (b) 5. of the statutes is amended to read:

20 48.977 (4) (b) 5. ~~A statement of whether the proceedings are subject to the~~  
21 ~~Uniform Child Custody Jurisdiction and Enforcement Act~~ The information required  
22 under ch. 822 s. 822.29 (1).

23 **SECTION 31.** 48.977 (4) (b) 6. of the statutes is amended to read:

24 48.977 (4) (b) 6. A statement of whether the child may be subject to s. 48.028  
25 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may

1 be subject to s. 48.028 or that act, the names and addresses of the child's Indian  
2 custodian, if any, and Indian tribe, if known.

3 **SECTION 32.** 48.977 (4) (c) 2. of the statutes is amended to read:

4 48.977 (4) (c) 2. Except as provided in subd. 2m., service shall be made by 1st  
5 class mail at least 7 days before the hearing or by personal service at least 7 days  
6 before the hearing ~~or, if with reasonable diligence a party specified in subd. 1. cannot~~  
7 ~~be served by mail or personal service, service shall be made by publication of a notice~~  
8 ~~published as a class 1 notice under ch. 985. In determining which newspaper is likely~~  
9 ~~to give notice as required under s. 985.02 (1), the petitioner shall consider the~~  
10 ~~residence of the party, if known, or the residence of the relatives of the party, if~~  
11 ~~known, or the last-known location of the party. Service is considered to be made by~~  
12 proof that the petition and notice under subd. 1. were mailed to the last-known  
13 address of the recipient, by proof of personal delivery of that petition and notice, or,  
14 if the recipient is an adult, by the written admission of service of the person served.

15 **SECTION 33.** 48.977 (4) (cm) 1m. of the statutes is created to read:

16 48.977 (4) (cm) 1m. If a man who has been given notice under par. (c) 1. appears  
17 at the hearing, alleges that he is the father of the child, and states that he wishes to  
18 establish the paternity of the child, s. 48.299 (6) applies.

19 **SECTION 34.** 48.977 (4) (i) of the statutes is amended to read:

20 48.977 (4) (i) *Effect of disposition on permanency review process.* After a  
21 disposition under par. (h), the child's permanency plan shall continue to be reviewed  
22 under s. 48.38 (5) or 938.38 (5), if applicable required under s. 48.38 (2) or 938.38 (2).

23 **SECTION 35.** 48.977 (6) (c) of the statutes is amended to read:

24 48.977 (6) (c) If a hearing is to be held, the court person requesting or proposing  
25 the revision shall notify the persons entitled to receive notice under sub. (4) (c) at

1 least 7 days prior to the hearing of the date, place and purpose of the hearing. A copy  
2 of the request or proposal shall be attached to the notice. The court may order a  
3 revision if, at the hearing, the court finds that it has been proved by clear and  
4 convincing evidence that there has been a substantial change in circumstances and  
5 if the court determines that a revision would be in the best interests of the child.

6 **SECTION 36.** 48.977 (7) (b) 3. of the statutes is amended to read:

7 48.977 (7) (b) 3. If a hearing is to be held, the ~~court~~ person requesting or  
8 proposing the removal shall notify the persons entitled to receive notice under sub.  
9 (4) (c) at least 7 days prior to the hearing of the date, place and purpose of the hearing.  
10 A copy of the request or court proposal shall be attached to the notice. The court shall  
11 remove the guardian for cause if, at the hearing, the court finds that it has been  
12 proved by clear and convincing evidence that the guardian is or has been neglecting,  
13 is or has been refusing or is or has been unable to discharge the guardian's trust and  
14 if the court determines that removal of the guardian would be in the best interests  
15 of the child.

16 **SECTION 37.** 48.977 (7) (d) 3. of the statutes is amended to read:

17 48.977 (7) (d) 3. If a hearing is to be held, the ~~court~~ parent requesting the  
18 termination shall notify the persons entitled to receive notice under sub. (4) (c) at  
19 least 7 days prior to the hearing of the date, place and purpose of the hearing. A copy  
20 of the request shall be attached to the notice. The court shall terminate the  
21 guardianship if, at the hearing, the court finds that it has been proved by clear and  
22 convincing evidence that there has been a substantial change in circumstances since  
23 the last order affecting the guardianship was entered and the parent is willing and  
24 able to carry out the duties of a guardian and if the court determines that termination  
25 of the guardianship would be in the best interests of the child.

1           **SECTION 38.** 48.977 (8) of the statutes is amended to read:

2           48.977 (8) ~~RELATIONSHIP TO CH. 54 AND CH. 880, 2003 STATS~~ OTHER GUARDIANSHIP  
3 PROCEDURES. (a) This section does not abridge the duties or authority of a guardian  
4 appointed under s. 48.976 or ch. 54, 2015 stats., or ch. 880, 2003 stats.

5           (b) Nothing in this section prohibits an individual from petitioning a court  
6 under ch. 54 s. 48.976 for appointment of a guardian.

7           **SECTION 39.** 48.978 (2) (a) 1. of the statutes is amended to read:

8           48.978 (2) (a) 1. A parent who has legal custody of a child may file a petition  
9 for the judicial appointment of a standby guardian of the person or estate or both of  
10 the child under this subsection. A parent may include in the petition the nomination  
11 of an alternate standby guardian for the court to appoint if the person nominated as  
12 standby guardian is unfit, unwilling, or unable to serve as the child's guardian or if  
13 the court determines that appointment of the person nominated as standby guardian  
14 as the child's guardian is not in the best interests of the child. Subject to subds. 2.  
15 and 3., if a petition is filed under this subdivision, the petition shall be joined by each  
16 parent who has legal custody of the child.

17           **SECTION 40.** 48.978 (2) (a) 2. of the statutes is amended to read:

18           48.978 (2) (a) 2. If a parent who has legal custody of a child cannot with  
19 reasonable diligence locate the other parent who has legal custody of the child, the  
20 parent may file a petition under subd. 1. without the that other parent joining in the  
21 petition and, if the parent filing the petition submits proof satisfactory to the court  
22 of that reasonable diligence, the court may grant the petition.

23           **SECTION 41.** 48.978 (2) (a) 3. of the statutes is amended to read:

24           48.978 (2) (a) 3. If a parent who has legal custody of a child can locate the other  
25 parent who has legal custody of the child, but that other parent refuses fails to join

1 in the petition or ~~indicates to indicate~~ that he or she is ~~unwilling or unable~~ fit, willing,  
2 and able to exercise the duty and authority of guardianship, the parent may file a  
3 petition under subd. 1. without the ~~that~~ other parent joining in the petition and, if  
4 the parent filing the petition submits proof satisfactory to the court of that ~~refusal,~~  
5 ~~unwillingness or inability~~ failure, the court may grant the petition.

6 **SECTION 42.** 48.978 (2) (b) 6. of the statutes is amended to read:

7 48.978 (2) (b) 6. A statement that the petitioner has a physical or mental  
8 impairment or a physical illness, disease, or injury and that that there is a significant  
9 risk that the petitioner will become incapacitated or debilitated or die, as applicable,  
10 ~~within 2 years after the date on which the petition is filed as a result of that~~  
11 impairment, illness, disease, or injury and the factual basis for that statement.

12 **SECTION 43.** 48.978 (2) (b) 7. of the statutes is amended to read:

13 48.978 (2) (b) 7. If a parent of the child cannot with reasonable diligence locate  
14 the other parent of the child, a statement that the child has no parent, other than the  
15 petitioner, who is fit, willing, and able to exercise the duties and authority of  
16 guardianship and who, with reasonable diligence, can be located and a statement of  
17 the efforts made to locate the other parent.

18 **SECTION 44.** 48.978 (2) (b) 8. of the statutes is amended to read:

19 48.978 (2) (b) 8. If a parent of the child can locate the other parent who has legal  
20 custody of the child, but that other parent ~~refuses~~ fails to join in the petition or  
21 ~~indicates to indicate~~ that he or she is ~~unwilling or unable~~ fit, willing, and able to  
22 exercise the duty and authority of guardianship, a statement that the child has no  
23 parent, other than the petitioner, who is fit, willing, and able to exercise the duty and  
24 authority of guardianship and a statement that the nonpetitioning parent has  
25 ~~refused~~ has failed to join in the petition or ~~has indicated to indicate~~ that he or she

1 is ~~unwilling or unable~~ fit, willing, and able to exercise the duty and authority of  
2 guardianship.

3 **SECTION 45.** 48.978 (2) (b) 10. of the statutes is amended to read:

4 48.978 (2) (b) 10. ~~A statement of whether the proceedings are subject to the~~  
5 ~~Uniform Child Custody Jurisdiction and Enforcement Act~~ The information required  
6 ~~under ch. 822 s. 822.29 (1).~~

7 **SECTION 46.** 48.978 (2) (b) 11. of the statutes is amended to read:

8 48.978 (2) (b) 11. A statement of whether the child may be subject to s. 48.028  
9 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the child may  
10 be subject to s. 48.028 or that act, the names and addresses of the child's Indian  
11 custodian, if any, and Indian tribe, if known.

12 **SECTION 47.** 48.978 (2) (d) 1m. of the statutes is created to read:

13 48.978 (2) (d) 1m. If a man who has been given notice under par. (c) 1. appears  
14 at the hearing, alleges that he is the father of the child, and states that he wishes to  
15 establish the paternity of the child, s. 48.299 (6) applies.

16 **SECTION 48.** 48.978 (2) (e) 1. of the statutes is amended to read:

17 48.978 (2) (e) 1. Whether the petitioner has a physical or mental impairment  
18 or a physical illness, disease, or injury and there is a significant risk that the  
19 petitioner will become incapacitated or debilitated or die ~~within 2 years after the date~~  
20 ~~on which the petition was filed~~ as a result of that impairment, illness, disease, or  
21 injury.

22 **SECTION 49.** 48.978 (2) (e) 2. of the statutes is amended to read:

23 48.978 (2) (e) 2. Whether the child has any parent, other than the petitioner,  
24 who is fit, willing, and able to exercise the duty and authority of guardianship.

25 **SECTION 50.** 48.978 (2) (e) 4. of the statutes is repealed.

1           **SECTION 51.** 48.978 (2) (f) 1. of the statutes is amended to read:

2           48.978 (2) (f) 1. That the petitioner has a physical or mental impairment or a  
3 physical illness, disease, or injury and there is a significant risk that the petitioner  
4 will become incapacitated or debilitated or die within 2 years after the date on which  
5 the petition was filed as a result of that impairment, illness, disease, or injury.

6           **SECTION 52.** 48.978 (2) (f) 2. of the statutes is amended to read:

7           48.978 (2) (f) 2. That the child has no parent, other than the petitioner, who is  
8 fit, willing, and able to exercise the duty and authority of guardianship.

9           **SECTION 53.** 48.978 (2) (f) 4. of the statutes is repealed.

10          **SECTION 54.** 48.978 (2) (f) 5. of the statutes is amended to read:

11          48.978 (2) (f) 5. That the person nominated as standby guardian is fit, willing,  
12 and able to act as standby guardian or, if that person is not so fit, willing, and able,  
13 that the person nominated as alternate standby guardian is fit, willing, and able to  
14 act as standby guardian.

15          **SECTION 55.** 48.978 (3) (b) 2. of the statutes is amended to read:

16          48.978 (3) (b) 2. A written designation of a standby guardian complies with this  
17 subsection if the written designation substantially conforms to the following form:

18           DESIGNATION OF STANDBY GUARDIAN

19           I, .... (name and address of parent), being of sound mind, do hereby designate ....  
20 (name and address of standby guardian) as standby guardian of the person and  
21 estate of my child(ren) .... (name(s), birth date(s) and address(es) of child(ren)).

22           (You may, if you wish, provide that the duty and authority of the standby  
23 guardian shall extend only to the person, or only to the estate, of your child(ren), by  
24 crossing out "person and" or "and estate", whichever is inapplicable, above.)



1 The duty and authority of the standby guardian shall begin on one of the  
2 following events, whichever occurs first:

3 1. I die.

4 2. My doctor determines that I am mentally incapacitated, and thus unable to  
5 care for my child(ren).

6 3. My doctor determines that I am physically debilitated, and thus unable to  
7 care for my child(ren), and I consent in writing, before 2 witnesses, to the standby  
8 guardian's duty and authority taking effect.

9 If the person I designate above is unfit, unwilling, or unable to act as standby  
10 guardian for my child(ren), I hereby designate .... (name and address of alternate  
11 standby guardian) as standby guardian for my child(ren).

12 I also understand that the duty and authority of the standby guardian  
13 designated above will end 180 days after the day on which that duty and authority  
14 begin if the standby guardian does not petition the court within those 180 days for  
15 an order appointing him or her as standby guardian.

16 I understand that I retain full parental rights over my child(ren) even after the  
17 beginning of the standby guardianship, that I may revoke the standby guardianship  
18 at any time before the standby guardianship begins, that I may revoke the standby  
19 guardianship at any time after the standby guardianship begins, subject to the  
20 approval of the court, and that the standby guardianship will be suspended on my  
21 recovery or remission from my incapacity or debilitation.

22 Signature....

Date ...

23 STATEMENT OF WITNESSES

24 I declare that the person whose name appears above signed this document in  
25 my presence, or was physically unable to sign the document and asked another

1 person 18 years of age or over to sign the document, who did so in my presence, and  
2 that I believe the person whose name appears above to be of sound mind. I further  
3 declare that I am 18 years of age or over and that I am not the person designated as  
4 standby guardian or alternate standby guardian.

5 Witness No. 1:

6 (print) Name ....

Date ....

7 Address ....

8 Signature ....

9 Witness No. 2:

10 (print) Name ....

Date ....

11 Address ....

12 Signature ....

13 STATEMENT OF STANDBY GUARDIAN

14 AND ALTERNATE STANDBY GUARDIAN

15 I .... (name and address of standby guardian), and I, .... (name and address of  
16 alternate standby guardian), understand that .... (name of parent) has designated  
17 me to be the standby guardian or alternate standby guardian of the person and estate  
18 (cross out "person and" or "and estate", if inapplicable) of his or her child(ren) if he  
19 or she dies, becomes mentally incapacitated, or becomes physically debilitated and  
20 consents, to my duty and authority taking effect. I hereby declare that I am fit,  
21 willing, and able to undertake the duty and authority of standby guardianship and  
22 I understand that within 180 days after that duty and authority begin I must petition  
23 the court for an order appointing me as standby guardian. I further understand  
24 that .... (name of parent) retains full parental rights over his or her child(ren) even  
25 after the beginning of the standby guardianship, that he or she may revoke the

1 standby guardianship at any time before the standby guardianship begins, that he  
 2 or she may revoke the standby guardianship at any time after the standby  
 3 guardianship begins, subject to the approval of the court, and that the standby  
 4 guardianship will be suspended on his or her recovery or remission from his or her  
 5 incapacity or debilitation.

6 Standby guardian's signature .... Date ...

7 Address ....

8 Alternate standby guardian' signature .... Date ...

9 Address ....

10 **SECTION 56.** 48.978 (3) (e) 1. of the statutes is amended to read:

11 48.978 (3) (e) 1. The written designation under par. (a) signed or consented to  
 12 by each parent of the child or, if a parent cannot with reasonable diligence be located  
 13 or has ~~refused~~ failed to consent to the designation, the written designation under par.  
 14 (a) signed by one parent and a statement of the efforts made to find the other parent  
 15 or of the fact that the other parent has ~~refused~~ failed to consent to the designation.

16 **SECTION 57.** 48.978 (3) (e) 3. of the statutes is amended to read:

17 48.978 (3) (e) 3. If the petition is filed by a person who has been designated as  
 18 an alternate standby guardian, a statement that the person designated as standby  
 19 guardian is unfit, unwilling, or unable to act as standby guardian and the factual  
 20 basis for that statement.

21 **SECTION 58.** 48.978 (3) (g) 3. of the statutes is amended to read:

22 48.978 (3) (g) 3. That the child has no parent who is fit, willing, and able to  
 23 exercise the duty and authority of guardianship.

24 **SECTION 59.** 48.978 (3) (g) 4. of the statutes is amended to read:

1           48.978 (3) (g) 4. That, if a parent cannot be located, the petitioner has made  
2 diligent efforts to locate that parent or, ~~if a parent has refused to consent to the~~  
3 ~~designation of the standby guardian, the consent was unreasonably withheld.~~

4           **SECTION 60.** 48.978 (3) (g) 5. of the statutes is amended to read:

5           48.978 (3) (g) 5. That, if the petitioner is a person designated as an alternate  
6 standby guardian, the person designated as standby guardian is unfit, unwilling, or  
7 unable to act as standby guardian.

8           **SECTION 61.** 48.978 (7) of the statutes is amended to read:

9           48.978 (7) ~~RELATIONSHIP TO CH. 54~~ OTHER GUARDIANSHIP PROCEDURES. (a) Except  
10 when a different right, remedy, or procedure is provided under this section, the  
11 rights, remedies, and procedures provided in s. 48.976 or ch. 54, whichever is  
12 applicable, shall govern a standby guardianship created under this section.

13           (b) This section does not abridge the duties or authority of a guardian appointed  
14 under s. 48.976, ch. 880, 2003 stats., or ch. 54.

15           (c) Nothing in this section prohibits an individual from petitioning a court for  
16 the appointment of a guardian of the person under s. 48.976 or a guardian of the  
17 estate under ch. 54.

18           **SECTION 62.** 48.981 (7) (a) 11v. of the statutes is created to read:

19           48.981 (7) (a) 11v. A guardian ad litem for a child who is the subject of a  
20 guardianship proceeding under s. 48.976 to the extent necessary for the guardian ad  
21 litem to make recommendations to the court concerning the best interests of the  
22 child, to report to the court concerning the suitability of the proposed guardian to  
23 serve as guardian of the child and on any other matter that the court requests, and  
24 otherwise to fulfill the duties and responsibilities required of the guardian ad litem  
25 in the proceeding.

1       **SECTION 63.** 49.32 (1) (am) of the statutes is amended to read:

2           49.32 (1) (am) Paragraph (a) does not prevent the department or a county  
3       department under s. 46.22 or 46.23 from charging and collecting the cost of adoptive  
4       placement investigations and child care as authorized under s. 48.837 (7) or the cost  
5       of guardianship investigations as authorized under s. 48.976 (3) (e) 2.

6       **SECTION 64.** 51.30 (4) (b) 18. a. of the statutes is amended to read:

7           51.30 (4) (b) 18. a. In this subdivision, “abuse” has the meaning given in s. 51.62  
8       (1) (ag); “neglect” has the meaning given in s. 51.62 (1) (br); and “parent” has the  
9       meaning given in s. 48.02 (13), except that “parent” does not include the parent of a  
10      minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),  
11      or for whom a guardian is appointed under, ~~or~~ s. 48.976 or 54.10 or s. 880.33, 2003  
12      stats.

13      **SECTION 65.** 51.30 (4) (b) 18. c. of the statutes is amended to read:

14           51.30 (4) (b) 18. c. If the patient, regardless of age, has a guardian appointed  
15      under s. 48.976 or 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with  
16      developmental disability who has a parent or has a guardian appointed under s.  
17      48.831 and does not have a guardian appointed under s. 48.976 or 54.10 or s. 880.33,  
18      2003 stats., information concerning the patient that is obtainable by staff members  
19      of the agency or nonprofit corporation with which the agency has contracted is  
20      limited, except as provided in subd. 18. e., to the nature of an alleged rights violation,  
21      if any; the name, birth date and county of residence of the patient; information  
22      regarding whether the patient was voluntarily admitted, involuntarily committed  
23      or protectively placed and the date and place of admission, placement or  
24      commitment; and the name, address and telephone number of the guardian of the  
25      patient and the date and place of the guardian’s appointment or, if the patient is a

1 minor with developmental disability who has a parent or has a guardian appointed  
2 under s. 48.831 and does not have a guardian appointed under s. 48.976 or 54.10 or  
3 s. 880.33, 2003 stats., the name, address and telephone number of the parent or  
4 guardian appointed under s. 48.831 of the patient.

5 **SECTION 66.** 54.01 (10) of the statutes is amended to read:

6 54.01 (10) "Guardian" means a person appointed by a court under s. 54.10 to  
7 manage the income and assets, ~~which may include, by court order, digital property,~~  
8 ~~as defined in s. 711.03 (10),~~ and provide for the essential requirements for health and  
9 safety and the personal needs of ~~a minor,~~ an individual found incompetent, or a  
10 spendthrift or to manage the income and assets of a minor. A person's assets may  
11 include, by court order, digital property, as defined in s. 711.03 (10).

12 **SECTION 67.** 54.10 (1) of the statutes is amended to read:

13 54.10 (1) A court may appoint ~~a guardian of the person or~~ a guardian of the  
14 estate, ~~or both,~~ for an individual if the court determines that the individual is a  
15 minor. Except as provided in ss. 48.831, 48.977, and 48.978, an appointment of a  
16 guardian of the person of a minor shall be conducted under the procedures specified  
17 in s. 48.976.

18 **SECTION 68.** 54.52 (1) of the statutes is amended to read:

19 54.52 (1) A person may at any time bring a petition for the appointment of a  
20 standby guardian of the person or estate of an individual who is determined under  
21 s. 54.10 to be incompetent, ~~a minor,~~ or a spendthrift or for the appointment of a  
22 standby guardian of the estate of a minor, except that, as specified in s. 48.978 a  
23 petition for the appointment of a standby guardian of the person or ~~property~~ estate,  
24 or both, of a minor to assume the duty and authority of guardianship on the

1 incapacity, death, or debilitation and consent, of the minor's parent ~~may~~ shall be  
2 brought under s. 48.978.

3 **SECTION 69.** 54.56 of the statutes is renumbered 48.976 (11) and amended to  
4 read:

5 48.976 (11) VISITATION BY A MINOR'S CHILD'S GRANDPARENTS AND STEPPARENTS. (a)  
6 In this ~~section~~ subsection, "stepparent" means the surviving spouse of a deceased  
7 parent of a ~~minor~~ child, whether or not the surviving spouse has remarried.

8 (b) If one or both parents of a ~~minor~~ child are deceased and the ~~minor~~ child is  
9 in the custody of the surviving parent or any other person, a grandparent or  
10 stepparent of the ~~minor~~ child may petition for visitation privileges with respect to the  
11 ~~minor~~ child, whether or not the person with custody is married. The grandparent  
12 or stepparent may file the petition in a guardianship or temporary guardianship  
13 proceeding under this ~~chapter~~ section that affects the ~~minor~~ child or may file the  
14 petition to commence an independent action under this ~~chapter~~ subsection. Except  
15 as provided in ~~sub. (3m)~~ par. (cm), the court may grant reasonable visitation  
16 privileges to the grandparent or stepparent if the surviving parent or other person  
17 who has custody of the ~~minor~~ child has notice of the hearing and if the court  
18 determines that visitation is in the best interest of the ~~minor~~ child.

19 (c) Whenever possible, in making a determination under ~~sub. (2)~~ par. (b), the  
20 court shall consider the wishes of the ~~minor~~ child.

21 (cm) 1. Except as provided in ~~par. (b)~~ subd. 2., the court may not grant visitation  
22 privileges to a grandparent or stepparent under this ~~section~~ subsection if the  
23 grandparent or stepparent has been convicted under s. 940.01 of the first-degree  
24 intentional homicide, or under s. 940.05 of the 2nd-degree intentional homicide, of

1 a parent of the ~~minor~~ child, and the conviction has not been reversed, set aside, or  
2 vacated.

3 2. ~~Paragraph (a)~~ Subdivision 1. does not apply if the court determines by clear  
4 and convincing evidence that the visitation would be in the best interests of the ~~minor~~  
5 child. The court shall consider the wishes of the ~~minor~~ child in making the  
6 determination.

7 (d) The court may issue any necessary order to enforce a visitation order that  
8 is granted under this ~~section~~ subsection, and may from time to time modify the  
9 visitation privileges or enforcement order for good cause shown.

10 (dm) 1. If a grandparent or stepparent granted visitation privileges with  
11 respect to a ~~minor~~ child under this ~~section~~ subsection is convicted under s. 940.01 of  
12 the first-degree intentional homicide, or under s. 940.05 of the 2nd-degree  
13 intentional homicide, of a parent of the ~~minor~~ child, and the conviction has not been  
14 reversed, set aside, or vacated, the court shall modify the visitation order by denying  
15 visitation with the ~~minor~~ child upon petition, motion, or order to show cause by a  
16 person having custody of the ~~minor~~ child, or upon the court's own motion, and upon  
17 notice to the grandparent or stepparent granted visitation privileges.

18 2. ~~Paragraph (a)~~ Subdivision 1. does not apply if the court determines by clear  
19 and convincing evidence that the visitation would be in the best interests of the ~~minor~~  
20 child. The court shall consider the wishes of the ~~minor~~ child in making the  
21 determination.

22 (e) This ~~section~~ subsection applies to every ~~minor~~ child in this state whose  
23 parent or parents are deceased, regardless of the date of death of the parent or  
24 parents.



1           **SECTION 70.** 54.57 of the statutes is renumbered 48.976 (12) and amended to  
2 read:

3           48.976 (12) PROHIBITING VISITATION OR PHYSICAL PLACEMENT IF ~~A~~ PARENT KILLS  
4 OTHER PARENT. (a) Except as provided in sub. (2), ~~in an action under this chapter that~~  
5 ~~affects a minor~~ par. (b), a court may not grant to a parent of the minor a child who  
6 is the subject of a proceeding under this section visitation or physical placement  
7 rights with the minor child if the parent has been convicted under s. 940.01 of the  
8 first-degree intentional homicide, or under s. 940.05 of the 2nd-degree intentional  
9 homicide, of the minor's child's other parent, and the conviction has not been  
10 reversed, set aside, or vacated.

11           (b) ~~Subsection (1) Paragraph (a)~~ does not apply if the court determines by clear  
12 and convincing evidence that visitation or periods of physical placement would be in  
13 the best interests of the minor child. The court shall consider the wishes of the minor  
14 child in making the determination.

15           **SECTION 71.** 55.03 (1) of the statutes is amended to read:

16           55.03 (1) AGENCY AS BOTH GUARDIAN AND PROVIDER PROHIBITED. No agency acting  
17 as a guardian appointed under s. 48.976 or ch. 54, 2015 stats., or ch. 880, 2003 stats.,  
18 or ch. 54 may be a provider of protective services or protective placement for its ward  
19 under this chapter.

20           **SECTION 72.** 55.08 (1) (b) of the statutes is amended to read:

21           55.08 (1) (b) The individual is a minor 14 years of age or over who is ~~not~~ alleged  
22 to have a developmental disability ~~and on whose behalf a petition for guardianship~~  
23 ~~has been submitted~~, or is an adult who has been determined to be incompetent by a  
24 circuit court.

25           **SECTION 73.** 55.08 (2) (a) of the statutes is amended to read:

1           55.08 (2) (a) The individual has been determined to be incompetent by a circuit  
2 court or is a minor 14 years of age or over who is alleged to have a developmental  
3 disability ~~and on whose behalf a petition for a guardianship has been submitted.~~

4           **SECTION 74.** 55.10 (4) (intro.) of the statutes is amended to read:

5           55.10 (4) RIGHTS. (intro.) Sections 54.42, 54.44, and 54.46 and the following  
6 provisions apply to all hearings under this chapter involving protective placement  
7 or protective services for an adult, and the following provisions apply to all hearings  
8 under this chapter involving protective placement or protective services for a minor,  
9 except transfers of placement under s. 55.15 and summary hearings under ss. 55.18  
10 (3) (d) and 55.19 (3) (d):

11           **SECTION 75.** 115.76 (12) (b) 2. of the statutes is amended to read:

12           115.76 (12) (b) 2. The state, a county, or a child welfare agency, if a child was  
13 made a ward of the state, county, or child welfare agency under ch. 54, ~~2015~~ stats.,  
14 or ch. 880, 2003 stats., or if a child has been placed in the legal custody or  
15 guardianship of the state, county, or child welfare agency under ch. 48 or ~~ch.~~ 767.

16           **SECTION 76.** 118.125 (2) (L) of the statutes is amended to read:

17           118.125 (2) (L) A school board shall disclose the pupil records of a pupil in  
18 compliance with a court order under s. ~~48.235 (3) (c) 5.,~~ 48.236 (4) (a), 48.345 (12) (b),  
19 938.34 (7d) (b), 938.396 (1) (d), or 938.78 (2) (b) 2. after making a reasonable effort  
20 to notify the pupil's parent or legal guardian.

21           **SECTION 77.** 146.82 (2) (a) 9. a. of the statutes is amended to read:

22           146.82 (2) (a) 9. a. In this subdivision, "abuse" has the meaning given in s. 51.62  
23 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the  
24 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a

1 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),  
2 or for whom a guardian is appointed under s. 48.976 or 54.10 or s. 880.33, 2003 stats.

3 **SECTION 78.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

4 146.82 (2) (a) 9. c. If the patient, regardless of age, has a guardian appointed  
5 under s. 48.976 or 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with  
6 developmental disability, as defined in s. 51.01 (5) (a), who has a parent or has a  
7 guardian appointed under s. 48.831 and does not have a guardian appointed under  
8 s. 48.976 or 54.10 or s. 880.33, 2003 stats., information concerning the patient that  
9 is obtainable by staff members of the agency or nonprofit corporation with which the  
10 agency has contracted is limited, except as provided in subd. 9. e., to the nature of  
11 an alleged rights violation, if any; the name, birth date and county of residence of the  
12 patient; information regarding whether the patient was voluntarily admitted,  
13 involuntarily committed or protectively placed and the date and place of admission,  
14 placement or commitment; and the name, address and telephone number of the  
15 guardian of the patient and the date and place of the guardian's appointment or, if  
16 the patient is a minor with developmental disability who has a parent or has a  
17 guardian appointed under s. 48.831 and does not have a guardian appointed under  
18 s. 48.976 or 54.10 or s. 880.33, 2003 stats., the name, address and telephone number  
19 of the parent or guardian appointed under s. 48.831 of the patient.

20 **SECTION 79.** 214.37 (4) (k) 1. of the statutes is amended to read:

21 214.37 (4) (k) 1. An affidavit stating that the person has standing under s.  
22 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment  
23 of a decedent's estate or that the person is an heir of the decedent, or was guardian,  
24 as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the estate of the decedent

1 at the time of the decedent's death, and may obtain transfer of property of a decedent  
2 under s. 867.03.

3 **SECTION 80.** 215.26 (8) (e) 1. of the statutes is amended to read:

4 215.26 (8) (e) 1. Submits an affidavit stating that the person has standing  
5 under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or  
6 assignment of a decedent's estate or that the person is an heir of the decedent, or was  
7 guardian, as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the estate of the  
8 decedent at the time of the decedent's death, and may obtain transfer of property of  
9 a decedent under s. 867.03; and

10 **SECTION 81.** 757.69 (1) (g) 5. of the statutes is amended to read:

11 757.69 (1) (g) 5. Conduct uncontested proceedings under s. 48.13, 48.133,  
12 48.976, 938.12, 938.13, or 938.18.

13 **SECTION 82.** 808.075 (4) (a) 9m. of the statutes is created to read:

14 808.075 (4) (a) 9m. Review of the conduct of a guardian under s. 48.976 (9).

15 **SECTION 83.** 808.075 (4) (a) 11. of the statutes is amended to read:

16 808.075 (4) (a) 11. Termination of guardianship under s. 48.976 (10) or 48.977  
17 (7), including removal of a guardian.

18 **SECTION 84.** 808.075 (4) (a) 13. of the statutes is created to read:

19 808.075 (4) (a) 13. Appointment of a successor guardian under s. 48.976 (7).

20 **SECTION 85.** 808.075 (4) (f) 3. of the statutes is renumbered 808.075 (4) (a) 14.

21 and amended to read:

22 808.075 (4) (a) 14. Order for visitation under s. ~~54.56~~ 48.976 (11).

23 **SECTION 86.** 814.66 (1) (m) of the statutes is amended to read:

1 814.66 (1) (m) For filing a petition under s. ~~54.56~~ 48.976 (11), whether in a  
2 guardianship or temporary guardianship proceeding or to commence an  
3 independent action, \$60.

4 **SECTION 87.** 938.02 (8) of the statutes is amended to read:

5 938.02 (8) "Guardian" means the person named by the court having the duty  
6 and authority of ~~guardianship~~ guardian of the person of a juvenile.

7 **SECTION 88.** 938.255 (1) (cm) of the statutes is amended to read:

8 938.255 (1) (cm) If the petition is initiating proceedings under s. 938.13 (4), (6),  
9 (6m), or (7), whether the juvenile may be subject to s. 938.028 or the federal Indian  
10 Child Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to s.  
11 938.028 or that act, the names and addresses of the juvenile's Indian custodian, if  
12 any, and Indian tribe, if known.

13 **SECTION 89.** 938.34 (3) (a) of the statutes is amended to read:

14 938.34 (3) (a) The home of a parent ~~or~~, other relative, or guardian of the  
15 juvenile, except that the court may not designate the home of a parent ~~or~~, other  
16 relative, or guardian of the juvenile as the juvenile's placement if the parent ~~or~~, other  
17 relative, or guardian has been convicted of the homicide of a parent of the juvenile  
18 under s. 940.01 or 940.05, and the conviction has not been reversed, set aside, or  
19 vacated, unless the court determines by clear and convincing evidence that the  
20 placement would be in the best interests of the juvenile. The court shall consider the  
21 wishes of the juvenile in making that determination.

22 **SECTION 90.** 938.34 (3) (c) of the statutes is amended to read:

23 938.34 (3) (c) A foster home licensed under s. 48.62 ~~or~~, a group home licensed  
24 under s. 48.625, or the home of a guardian under s. 48.977 (2).

25 **SECTION 91.** 938.345 (1) (e) of the statutes is amended to read:

1           938.345 (1) (e) Place any juvenile not found under ch. 880, 2003 stats., or ch.  
2           46, 48, 49, 51, 54, or 115 to have a developmental disability or a mental illness or to  
3           be a child with a disability, as defined in s. 115.76 (5), in a facility that exclusively  
4           treats one or more of those categories of juveniles.

5           **SECTION 92.** 938.345 (4) of the statutes is repealed.

6           **SECTION 93.** 938.355 (6) (an) 1. of the statutes is amended to read:

7           938.355 (6) (an) 1. If a juvenile who has violated a municipal ordinance, other  
8           than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a  
9           dispositional order imposed by the municipal court, the municipal court may petition  
10          the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose  
11          on the juvenile the sanction under par. (d) 1. or the sanction under par. (d) 3., with  
12          monitoring by an electronic monitoring system. A sanction may be imposed under  
13          this subdivision only if, at the time of the judgment, the municipal court explained  
14          the conditions to the juvenile and informed the juvenile of those possible sanctions  
15          for a violation or if before the violation the juvenile has acknowledged in writing that  
16          he or she has read, or has had read to him or her, those conditions and possible  
17          sanctions and that he or she understands those conditions and possible sanctions.  
18          The petition shall contain a statement of whether the juvenile may be subject to s.  
19          938.028 or the federal Indian Child Welfare Act, 25 USC 1901 to 1963, and, if the  
20          juvenile may be subject to s. 938.028 or that act, the names and addresses of the  
21          juvenile's Indian custodian, if any, and tribe, if known.

22          **SECTION 94.** 938.355 (6) (b) of the statutes is amended to read:

23          938.355 (6) (b) *Motion to impose sanction.* A motion for imposition of a sanction  
24          may be brought by the person or agency primarily responsible for the provision of  
25          dispositional services, the district attorney or corporation counsel, or the court that

1 entered the dispositional order. If the court initiates the motion, that court is  
2 disqualified from holding a hearing on the motion. Notice of the motion shall be given  
3 to the juvenile, guardian ad litem, counsel, parent, guardian, legal custodian, and all  
4 parties present at the original dispositional hearing. The motion shall contain a  
5 statement of whether the juvenile may be subject to s. 938.028 or the federal Indian  
6 Child Welfare Act, 25 USC 1901 to 1963 and, if the juvenile may be subject to s.  
7 938.028 or that act, the names and addresses of the juvenile's Indian custodian, if  
8 any, and tribe, if known.

9 **SECTION 95.** 938.355 (6m) (am) 1. of the statutes is amended to read:

10 938.355 (6m) (am) 1. If a juvenile who has violated a municipal ordinance  
11 enacted under s. 118.163 (2) violates a condition of a dispositional order imposed by  
12 the municipal court, the municipal court may petition the court assigned to exercise  
13 jurisdiction under this chapter and ch. 48 to impose on the juvenile the sanction  
14 specified in par. (a) 1g. A sanction may be imposed under this subdivision only if, at  
15 the time of the judgment the municipal court explained the conditions to the juvenile  
16 and informed the juvenile of that possible sanction or if before the violation the  
17 juvenile has acknowledged in writing that he or she has read, or has had read to him  
18 or her, those conditions and that possible sanction and that he or she understands  
19 those conditions and that possible sanction. The petition shall contain a statement  
20 of whether the juvenile may be subject to s. 938.028 or the federal Indian Child  
21 Welfare Act, 25 USC 1901 to 1963, and, if the juvenile may be subject to s. 938.028  
22 or that act, the names and addresses of the juvenile's Indian custodian, if any, and  
23 tribe, if known.

24 **SECTION 96. Nonstatutory provisions.**

7

1 (1) TRANSITION. Notwithstanding the treatment of sections 54.01 (10) and 54.10

2 (1) of the statutes, all guardianships of the person of a minor under section 54.10,

3 2015 stats., or chapter 880, 2003 stats., in effect immediately before the effective date

4 of this subsection remain in effect and shall be considered guardianships under

5 section 48.976 of the statutes until terminated under section 48.976 (10) of the

6 statutes, all matters commenced under chapter 54, 2015 stats., with respect to a

7 guardianship of the person of a minor that are pending on the effective date of this

8 subsection shall be completed under chapter 54, 2015 stats., and all orders

9 appointing a guardian of the person of a minor under chapter 54, 2015 stats., entered

10 beginning on the effective date of this subsection shall be considered guardianships

11 under section 48.976 of the statutes.

12 (2) MERGER AUTHORITY. 2017 Wisconsin Act 185 and this act affect the same

13 statutory units without taking cognizance of each other. If the chief of the legislative

14 reference bureau finds there is no mutual inconsistency in the changes made by each

15 act, the chief shall incorporate the changes made by each act into the text of the

16 statutory units.

17 **SECTION 97. Initial applicability.**

18 (1) PETITIONS FOR GUARDIANSHIP. Except as provided in subsection (2), this act

19 first applies to a petition for guardianship filed on the effective date of this

20 subsection.

21 (2) DUTIES AND AUTHORITY OF GUARDIAN OF THE PERSON. The treatment of sections

22 48.023 (intro.), (3), and (4) and 48.976 (2) (c) 1. and 5. of the statutes first applies to

23 a guardianship of the person of a minor in effect on the effective date of this

24 subsection.

25 **SECTION 98. Effective date.**



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

3 (END)



30-4:

① make clear that burden is on the petitioner  
by preponderance - not clear + convincing

② The findings that the court must make need to match  
what the petitioner alleges on p. 29 lines 18-22

mirror pgs 29 (b)1. and p. 30 (b)3.  
xrefs to subd. 1.

33-6

54.15 (c) → delete "person or" to leave "of the estate"

54.25 ⇒ (2) (d) 1: delete last sentence

2.0.: delete everything after adult.

814.166 - don't think this is the right place to put this.  
Ask Sarah where to put

add this:

\* in new GAL section: specify when court appoints GAL -  
use language from 54.40 generally

WISCONSIN LEGISLATIVE REFERENCE BUREAU

Information Services 608-266-0341 — Legal Services 608-266-3561



Guardianship - minors

9/21/18

Leg. Council

✓ New subch.? 978, 979 + new 980

October 23<sup>rd</sup>

want it all to be 48.980

what to call new subchapter

Changes to - 0241/PI adds.

↳ other guardianship + parental delegation

Section 5 - 48.09(5) - 48.976 - only if applicable ✓

section 9

54.30(2) - venue for guardianship ✓

48.185 - new sentence for g'ship venue

Section 11: GAL duties - put into 48.980, include from ch. 54 ✓

m

54.40(1)

5-15:

1. Conduct an investigation appropriate to the case, including all of the following ✓

a. (1.)

b. (2.)

define in s. 980 - "Suitability"

48.88(2)(a) ~~(g)~~ 1. → whether ~~pt.~~ proposed guardian is fit, qualified to care for child, exercises sound judgment, etc... ✓

Ins 19-5 ✓

The court shall determine whether the petitioner has proven by clear and convincing evidence the allegations under sub. (3)(b) for full, limited or temporary g'ship and immediately proceed to determine the appropriate disposition under par.(h), considering the factors under par.(g).