

# State of Wisconsin



1997 Assembly Bill 602

Date of enactment: April 14, 1998  
Date of publication\*: April 28, 1998

## 1997 WISCONSIN ACT 105

AN ACT to amend 20.435 (3) (cz), 20.435 (3) (kc), 20.435 (3) (kd), 20.445 (3) (r), 48.48 (17) (a) 10., 48.57 (3m) (am) 4m., 48.57 (3m) (cm), 48.57 (3p) (a), 48.57 (3p) (b) 1., 48.57 (3p) (c) 1., 48.57 (3p) (c) 3., 48.57 (3t), 49.155 (1m) (a) (intro.), 49.155 (1m) (a) 1m. b., 49.175 (1) (w) 1., 49.22 (6), 49.22 (7m), 49.23 (1), 49.23 (2) (a) 1., 49.46 (1) (a) 5., 49.46 (1) (a) 16., 49.96, 50.065 (1) (c) 2., 767.045 (1) (c) 1., 767.075 (1) (c) and (cm), 767.077 (intro.), 767.078 (1) (a) 2., 767.29 (1m) (c), 767.29 (2), 767.29 (4), 767.32 (1) (a) and 767.47 (6); to repeal and recreate 49.96 and 767.29 (2); and to create 48.57 (3m) (am) 5m., 48.57 (3n), 48.57 (3p) (b) 3., 48.57 (3p) (c) 2m., 48.57 (3p) (fm) 1m., 48.57 (3p) (fm) 2m., 48.57 (3p) (hm) and 767.29 (1m) (cm) of the statutes; relating to: kinship care, creating a long-term kinship care program and making appropriations.

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

[Enrolling Note: 1997 Assembly Bill 602 has an extensive Prefatory Note for the bill, as introduced, that was prepared for the joint legislative council's special committee on adoption laws.]

**SECTION 2d.** 20.435 (3) (cz) of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

20.435 (3) (cz) (title) *Foster care services, kinship care, long-term kinship care and aid to minor custodial parents.* The amounts in the schedule for the cost of foster care and treatment foster care provided by nonlegally responsible relatives under s. 46.261 (2) (a) 3. or 4., for kinship care payments under s. 48.57 (3m), for long-term kinship care payments under s. 48.57 (3n) and for aid to minor custodial parents under s. 46.261 (2) (a) 1.

**SECTION 3d.** 20.435 (3) (kc) of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

20.435 (3) (kc) (title) *Interagency and intra-agency aids; kinship care and long-term kinship care.* The amounts in the schedule for payments under s. 48.57

(3m) and (3n). All moneys transferred from the appropriation account under s. 20.445 (3) (md) to this appropriation account shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30 of each year is transferred to the appropriation account under s. 20.445 (3) (ky).

**SECTION 4d.** 20.435 (3) (kd) of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

20.435 (3) (kd) (title) *Kinship care and long-term kinship care assessments.* The amounts in the schedule for assessments of kinship care relatives, as defined in s. 48.57 (3m) (a), and long-term kinship care relatives, as defined in s. 48.57 (3n) (a), who provide care and maintenance for children to determine if those kinship care relatives and long-term kinship care relatives are eligible to receive payments under s. 48.57 (3m) or (3n). All moneys transferred from the appropriation account under s. 20.445 (3) (md) to this appropriation account shall be credited to this appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered balance on June 30

\* Section 991.11, WISCONSIN STATUTES 1995-96: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

of each year is transferred to the appropriation account under s. 20.445 (3) (ky).

**SECTION 4g.** 20.445 (3) (r) of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

20.445 (3) (r) *Support receipt and disbursement program; payments.* From the support collections trust fund, all moneys received under ss. 767.265 and 767.29 for child or family support, maintenance, spousal support, health care expenses or birth expenses, and all other moneys received under judgments or orders in actions affecting the family, as defined in s. 767.02 (1), for disbursement to the persons for whom the payments are awarded and for transfer to the appropriation account under par. (k) if assigned under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm). Estimated disbursements under this paragraph shall not be included in the schedule under s. 20.005.

**SECTION 4r.** 48.48 (17) (a) 10. of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

48.48 (17) (a) 10. Administer kinship care and long-term kinship care as provided in s. 48.57 (3m), (3n) and (3p).

**SECTION 5.** 48.57 (3m) (am) 4m. of the statutes is amended to read:

48.57 (3m) (am) 4m. Subject to sub. (3p) (fm) 1. and 2., the kinship care relative states that he or she does not have any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child and that no adult resident, as defined in sub. (3p) (a), and no employe or prospective employe of the kinship care relative who would have regular contact with the child has any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child.

NOTE: Reflects the creation of other subdivisions in s. 48.57 (3p) (fm), stats., by this bill.

**SECTION 6.** 48.57 (3m) (am) 5m. of the statutes is created to read:

48.57 (3m) (am) 5m. The kinship care relative is not receiving payments under sub. (3n) with respect to the child.

NOTE: Adds, as a condition for the receipt of kinship care payments, a requirement that the kinship care relative not be receiving long-term kinship care payments with respect to the child.

**SECTION 7.** 48.57 (3m) (cm) of the statutes is amended to read:

48.57 (3m) (cm) A kinship care relative who receives a payment under par. (am) for providing care and maintenance for a child is not eligible to receive a payment under sub. (3n) or s. 48.62 (4) for that child.

NOTE: Provides that a kinship care relative who receives a kinship care payment for providing care and maintenance for a child is not eligible to receive a long-term kinship care payment for that child.

**SECTION 8.** 48.57 (3n) of the statutes is created to read:

48.57 (3n) (a) In this subsection, "long-term kinship care relative" means a stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle or any person of a preceding generation as denoted by the prefix of grand, great or great-great, whether by consanguinity, direct affinity or legal adoption, or the spouse of any person named in this paragraph, even if the marriage is terminated by death or divorce.

(am) From the appropriations under s. 20.435 (3) (cz) and (kc), the department shall reimburse counties having populations of less than 500,000 for payments made under this subsection and shall make payments under this subsection in a county having a population of 500,000 or more. A county department and, in a county having a population of 500,000 or more, the department shall make monthly payments for each child in the amount specified in sub. (3m) (am) (intro.) to a long-term kinship care relative who is providing care and maintenance for that child if all of the following conditions are met:

1. The long-term kinship care relative applies to the county department or department for payments under this subsection and provides proof that he or she has been appointed as the guardian of the child under s. 48.977 (2).

2. The county department or department inspects the long-term kinship care relative's home, interviews the long-term kinship care relative and determines that long-term placement with the long-term kinship care relative is in the best interests of the child.

4. The county department or department conducts a background investigation under sub. (3p) of the long-term kinship care relative, the employes and prospective employes of the long-term kinship care relative who have or would have regular contact with the child for whom the payments would be made and any other adult resident, as defined in sub. (3p) (a), of the long-term kinship care relative's home to determine if the long-term kinship care relative, employe, prospective employe or adult resident has any arrests or convictions that are likely to adversely affect the child or the long-term kinship care relative's ability to care for the child.

4m. Subject to sub. (3p) (fm) 1m. and 2m., the long-term kinship care relative states that he or she does not have any arrests or convictions that could adversely affect the child or the long-term kinship care relative's ability to care for the child and that, to the best of the long-term kinship care relative's knowledge, no adult resident, as defined in sub. (3p) (a), and no employe or prospective employe of the long-term kinship care relative who would have regular contact with the child has any arrests or convictions that could adversely affect the child or the long-term kinship care relative's ability to care for the child.

5. The long-term kinship care relative cooperates with the county department or department in the applica-

tion process, including applying for other forms of assistance for which the long-term kinship care relative may be eligible.

5m. The long-term kinship care relative is not receiving payments under sub. (3m) with respect to the child.

5r. The child for whom the long-term kinship care relative is providing care and maintenance is not receiving supplemental security income under 42 USC 1381 to 1383c or state supplemental payments under s. 49.77.

6. The long-term kinship care relative and the county department or department enter into a written agreement under which the long-term kinship care relative agrees to provide care and maintenance for the child and the county department or department agrees, subject to sub. (3p) (hm), to make monthly payments to the long-term kinship care relative at the rate specified in sub. (3m) (am) (intro.) until the earliest of the following:

a. The date on which the child attains the age of 18 years.

b. The date on which the child dies.

c. The date on which the child is placed outside the long-term kinship care relative's home under a court order or under a voluntary agreement under s. 48.63.

d. The date on which the child ceases to reside with the long-term kinship care relative.

e. The date on which the long-term kinship care's guardianship under s. 48.977 terminates.

f. The date on which the child moves out of the state.

(ar) Subject to sub. (3p) (fm) 1m. and (hm), a county department or, in a county having a population of 500,000 or more, the department shall enter into an agreement under par. (am) 6. if all of the following conditions are met:

1. All of the conditions in par. (am) 1. to 5r. are met.

2. The applicant has expressed a willingness to enter into the agreement.

(b) 1. The county department or, in a county having a population of 500,000 or more, the department shall refer to the attorney responsible for support enforcement under s. 59.53 (6) (a) the name of the parent or parents of a child for whom a payment is made under par. (am).

2. When any long-term kinship care relative of a child applies for or receives payments under this subsection, any right of the child or the child's parent to support or maintenance from any other person, including any right to unpaid amounts accrued at the time of application and any right to amounts accruing during the time that payments are made under this subsection, is assigned to the state. If a child is the beneficiary of support under a judgment or order that includes support for one or more children who are not the beneficiaries of payments under this subsection, any support payment made under the judgment or order is assigned to the state in the amount that is the proportionate share of the child who is the beneficiary of the payment made under this subsection,

except as otherwise ordered by the court on the motion of a party.

(c) The county department or, in a county having a population of 500,000 or more, the department shall require the parent or parents of a child for whom a payment is made under par. (am) to initiate or continue health care insurance coverage for the child.

(cm) A long-term kinship care relative who receives a payment under par. (am) for providing care and maintenance for a child is not eligible to receive a payment under sub. (3m) or s. 48.62 (4) for that child.

(d) The county department or, in a county having a population of 500,000 or more, the department shall, at least once every 12 months after the county department or department begins making payments under this subsection, determine whether any of the events specified in par. (am) 6. a. to f. have occurred. If any such events have occurred, the county department or department shall discontinue making those payments.

(e) The department shall determine whether the child is eligible for medical assistance under ss. 49.43 to 49.47.

(f) Any person whose application for payments under par. (am) is not acted on promptly or is denied on the grounds that a condition specified in par. (am) 1., 2., 5., 5m. or 5r. has not been met and any person whose payments under par. (am) are discontinued under par. (d) may petition the department under par. (g) for a review of that action or failure to act. Review is unavailable if the action or failure to act arose more than 45 days before submission of the petition for review.

(g) 1. Upon receipt of a timely petition under par. (f) the department shall give the applicant or recipient reasonable notice and an opportunity for a fair hearing. The department may make such additional investigation as it considers necessary. Notice of the hearing shall be given to the applicant or recipient and to the county department or subunit of the department whose action or failure to act is the subject of the petition. That county department or subunit of the department may be represented at the hearing. The department shall render its decision as soon as possible after the hearing and shall send a certified copy of its decision to the applicant or recipient and to the county department or subunit of the department whose action or failure to act is the subject of the petition. The decision of the department shall have the same effect as an order of the county department or subunit of the department whose action or failure to act is the subject of the petition. The decision shall be final, but may be revoked or modified as altered conditions may require. The department shall deny a petition for review or shall refuse to grant relief if any of the following applies:

a. The petitioner withdraws the petition in writing.

b. The sole issue in the petition concerns an automatic payment adjustment or change that affects an entire class of recipients and is the result of a change in state law.

c. The petitioner abandons the petition. Abandonment occurs if the petitioner fails to appear in person or by a representative at a scheduled hearing without good cause, as determined by the department.

2. If a recipient requests a hearing within 10 days after the date of notice that his or her payments under par. (am) are being discontinued, those payments may not be discontinued until a decision is rendered after the hearing but payments made pending the hearing decision may be recovered by the department if the contested action or failure to act is upheld. The department shall promptly notify the county department of the county in which the recipient resides or, if the recipient resides in a county having a population of 500,000 or more, the subunit of the department administering of the long-term kinship care program in that county that the recipient has requested a hearing. Payments under par. (am) shall be discontinued if any of the following applies:

a. The recipient is contesting a state law or a change in state law and not the determination of the payment made on the recipient's behalf.

b. The recipient is notified of a change in his or her payments under par. (am) while the hearing decision is pending but the recipient fails to request a hearing on the change.

3. The recipient shall be promptly informed in writing if his or her payments under par. (am) are to be discontinued pending the hearing decision.

NOTE: Creates the long-term kinship care program described above in the PREFATORY NOTE.

**SECTION 10.** 48.57 (3p) (a) of the statutes is amended to read:

48.57 (3p) (a) In this subsection, "adult resident" means a person 18 years of age or over who lives at the home of a person who has applied for or is receiving payments under sub. (3m) or (3n) with the intent of making that home his or her home or who lives for more than 30 days cumulative in any 6-month period at the home of a person who has applied for or is receiving payments under sub. (3m) or (3n).

NOTE: With respect to the definition of "adult resident" for purposes of criminal background investigations, reflects the creation of the long-term kinship care program by this bill.

**SECTION 11d.** 48.57 (3p) (b) 1. of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.57 (3p) (b) 1. After receipt of an application for payments under sub. (3m) or (3n), the county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, shall conduct a background investigation of the applicant.

**SECTION 12.** 48.57 (3p) (b) 3. of the statutes is created to read:

48.57 (3p) (b) 3. The county department or, in a county having a population of 500,000 or more, the de-

partment of health and family services, with the assistance of the department of justice, may conduct a background investigation of any person who is receiving payments under sub. (3n) at any time that the county department or department of health and family services considers to be appropriate.

**SECTION 13d.** 48.57 (3p) (c) 1. of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.57 (3p) (c) 1. After receipt of an application for payments under sub. (3m) or (3n), the county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, shall, in addition to the investigation under par. (b) 1., conduct a background investigation of all employees and prospective employees of the applicant who have or would have regular contact with the child for whom those payments are being made and of each adult resident.

**SECTION 14.** 48.57 (3p) (c) 2m. of the statutes is created to read:

48.57 (3p) (c) 2m. The county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, may conduct a background investigation of any of the employees or prospective employees of any person who is receiving payments under sub. (3n) who have or would have regular contact with the child for whom payments are being made and of each adult resident at any time that the county department or department of health and family services considers to be appropriate.

**SECTION 15d.** 48.57 (3p) (c) 3. of the statutes, as affected by 1997 Wisconsin Acts 27 and 35, is amended to read:

48.57 (3p) (c) 3. Before a person who is receiving payments under sub. (3m) or (3n) may employ any person in a position in which that person would have regular contact with the child for whom those payments are being made or permit any person to be an adult resident, the county department or, in a county having a population of 500,000 or more, the department of health and family services, with the assistance of the department of justice, shall conduct a background investigation of the prospective employee or prospective adult resident unless that person has already been investigated under subd. 1. ~~or~~ 2. or 2m.

**SECTION 16.** 48.57 (3p) (fm) 1m. of the statutes is created to read:

48.57 (3p) (fm) 1m. The county department or, in a county having a population of 500,000 or more, the department of health and family services may not enter into the agreement under sub. (3n) (am) 6. unless the county department or department of health and family services receives information from the department of justice relating to the conviction record of the applicant under the law of this state and that record indicates either that the appli-

cant has not been arrested or convicted or that the applicant has been arrested or convicted but the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines that the conviction record is satisfactory because it does not include any arrest or conviction that the director or person designated by the secretary determines is likely to adversely affect the child or the long-term kinship care relative's ability to care for the child. The county department or, in a county having a population of 500,000 or more, the department of health and family services may make payments under sub. (3n) conditioned on the receipt of information from the federal bureau of investigation indicating that the person's conviction record under the law of any other state or under federal law is satisfactory because the conviction record does not include any arrest or conviction that the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines is likely to adversely affect the child or the long-term kinship care relative's ability to care for the child.

**SECTION 17.** 48.57 (3p) (fm) 2m. of the statutes is created to read:

48.57 (3p) (fm) 2m. A person receiving payments under sub. (3n) may provisionally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or provisionally permit a person to be an adult resident if the person receiving those payments states to the county department or, in a county having a population of 500,000 or more, the department of health and family services that, to the best of his or her knowledge, the employe or adult resident does not have any arrests or convictions that could adversely affect the child or the ability of the person receiving payments to care for the child. A person receiving payment under sub. (3n) may not finally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or finally permit a person to be an adult resident until the county department or, in a county having a population of 500,000 or more, the department of health and family services receives information from the department of justice relating to the person's conviction record under the law of this state and that record indicates either that the person has not been arrested or convicted or that the person has been arrested or convicted but the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines that the conviction record is satisfactory because it does not include any arrest or conviction that is likely

to adversely affect the child or the long-term kinship care relative's ability to care for the child and the county department or department of health and family services so advises the person receiving payments under sub. (3n). A person receiving payments under sub. (3n) may finally employ a person in a position in which that person would have regular contact with the child for whom those payments are being made or finally permit a person to be an adult resident conditioned on the receipt of information from the county department or, in a county having a population of 500,000 or more, the department of health and family services that the federal bureau of investigation indicates that the person's conviction record under the law of any other state or under federal law is satisfactory because the conviction record does not include any arrest or conviction that the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary of health and family services to review conviction records under this subdivision determines is likely to adversely affect the child or the long-term kinship care relative's ability to care for the child.

**SECTION 18.** 48.57 (3p) (hm) of the statutes is created to read:

48.57 (3p) (hm) A county department or, in a county having a population of 500,000 or more, the department may not make payments to a person under sub. (3n) and a person receiving payments under sub. (3n) may not employ a person in a position in which that person would have regular contact with the child for whom payments are being made or permit a person to be an adult resident if the director of the county department or, in a county having a population of 500,000 or more, the person designated by the secretary to review conviction records under this paragraph determines that the person has any arrest or conviction that is likely to adversely affect the child or the long-term kinship care relative's ability to care for the child.

**SECTION 19d.** 48.57 (3t) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

48.57 (3t) Notwithstanding subs. (3m), ~~(3n)~~ and (3p), the department may enter into an agreement with the governing body of a federally recognized American Indian tribe or band to allow that governing body to administer the program under subs. (3m), ~~(3n)~~ and (3p) within the boundaries of that reservation. Any agreement under this subsection relating to the administration of the program under sub. (3m) shall specify the person with whom a request for review under sub. (3p) (h) 2. may be filed and the person who has been designated by the governing body to conduct the review under sub. (3p) (h) 3. and make the determination under sub. (3p) (h) 4. Any agreement under this subsection relating to the administration of the program under sub. (3n) shall specify who is to make any determination as to whether a conviction record is satisfactory.

NOTE: Does the following:

1. Amends the provision which allows DHFS to enter into an agreement with an Indian tribe to administer the kinship care program to add a parallel provision for the long-term kinship care program and a parallel provision for an Indian band.

2. Provides that with respect to the long-term kinship care program, the agreement must specify who is to make the decision as to whether a conviction record is satisfactory.

**SECTION 20d.** 49.155 (1m) (a) (intro.) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

49.155 (1m) (a) (intro.) The individual is a parent of a child who is under the age of 13, or is a person who, under s. 48.57 (3m) or (3n), is providing care and maintenance for a child who is under the age of 13, and child care services for that child are needed in order for the individual to do any of the following:

NOTE: Current law provides, in pertinent part, that a kinship care relative who is providing care and maintenance for a child who is under age 13 may be eligible for a Wisconsin works child care subsidy under certain circumstances. This bill adds a parallel provision for a long-term kinship care relative, as defined in s. 48.57 (3n), stats., as created by the bill.

**SECTION 20g.** 49.155 (1m) (a) 1m. b. of the statutes, as affected by 1997 Wisconsin Act 41, is amended to read:

49.155 (1m) (a) 1m. b. The individual has not yet attained the age of 18 years and the individual resides with his or her custodial parent or with a kinship care relative under s. 48.57 (3m) or with a long-term kinship care relative under s. 48.57 (3n) or is in a foster home or treatment foster home licensed under s. 48.62, a group home or an independent living arrangement supervised by an adult.

**SECTION 20m.** 49.175 (1) (w) 1. of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

49.175 (1) (w) 1. (title) 'Kinship care and long-term kinship care assistance.' For the kinship care program and long-term kinship care programs under s. 48.57 (3m), (3n) and (3p), \$15,720,400 in fiscal year 1997-98 and \$22,116,400 in fiscal year 1998-99.

**SECTION 21d.** 49.22 (6) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

49.22 (6) The department shall establish, pursuant to federal and state laws, rules and regulations, a uniform system of fees for services provided under this section to individuals not receiving aid under s. 46.261, 49.19 or 49.47 or benefits under s. 49.148 or 49.155 and to individuals not receiving kinship care payments under s. 48.57 (3m) or long-term kinship care payments under s. 48.57 (3n). The system of fees may take into account an individual's ability to pay. Any fee paid and collected under this subsection may be retained by the county providing the service except for the fee specified in 42 USC 653 (e) (2) for federal parent locator services.

NOTE: Current law provides that the uniform system of fees established by DHFS for services under s. 49.22, stats., that is, for services related to the child and spousal support and establishment of paternity and medical liability support program, do not apply to certain persons, including individuals receiving kinship care payments under s. 48.57 (3m), stats. This bill adds a parallel provision for individuals receiving long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill.

**SECTION 22.** 49.22 (7m) of the statutes is amended to read:

49.22 (7m) The department may contract with or employ a collection agency or other person to enforce a support obligation of a parent who is delinquent in making support payments and may contract with or employ an attorney to appear in an action in state or federal court to enforce such an obligation. To pay for the department's administrative costs of implementing this subsection, the department may charge a fee to counties, retain up to 50% of any incentive payment made to this state under 42 USC 658 for a collection under this subsection, and retain 30% of this state's share of a collection made under this subsection on behalf of a recipient of aid to families with dependent children or a recipient of kinship care payments under s. 48.57 (3m) or long-term kinship care payments under s. 48.57 (3n).

NOTE: With respect to collections made under the child and spousal support enforcement program, adds a provision to include collections made on behalf of a recipient of long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill, on the same basis as collections made on behalf of a recipient of kinship care payments under s. 48.57 (3m), stats.

**SECTION 23.** 49.23 (1) of the statutes is amended to read:

49.23 (1) From the appropriation under s. 20.445 (3) (cb), the department shall award grants to counties for programs to revise child support orders. Each county receiving a grant shall review child support orders awarded to persons who receive benefits under s. 48.57 (3m) or (3n) or 49.148 or whose children receive benefits under s. 49.19 and to persons who do not receive benefits under s. 48.57 (3m) or (3n) or 49.148 and whose children do not receive benefits under s. 49.19 and shall initiate actions to revise the orders based on that review. Each county receiving a grant shall review child support orders awarded to persons who receive benefits under s. 48.57 (3m) or (3n) or 49.148 or whose children receive benefits under s. 49.19 and child support orders awarded to persons who do not receive benefits under s. 48.57 (3m) or (3n) or 49.148 and whose children do not receive benefits under s. 49.19 in proportion to the number of those 2 categories of orders in the county's child support case load. Before a county may initiate an action to revise a child support order under this subsection for a person who does not receive benefits under s. 48.57 (3m) or (3n) or 49.148 and whose children do not receive benefits under s. 49.19, the

custodial parent of the children must voluntarily consent to the revision.

NOTE: With respect to the child support order revision program, adds provisions to include child support orders awarded to persons who receive long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill, on the same basis as child support orders awarded to persons who receive kinship care payments under s. 48.57 (3m), stats.

**SECTION 24.** 49.23 (2) (a) 1. of the statutes is amended to read:

49.23 (2) (a) 1. Provides an incentive for a county to increase its child support collections for persons who receive benefits under s. 48.57 (3m) or (3n) or 49.148 or whose children receive benefits under s. 46.261 or 49.19 as well as for persons who do not receive benefits under s. 48.57 (3m) or (3n) or 49.148 and whose children do not receive benefits under s. 46.261 or 49.19.

NOTE: With respect to the child support collection incentive program, adds provisions to include child support collections for person who receive long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill, on the same basis as child support collections for persons who receive kinship care payments under s. 48.57 (3m), stats.

**SECTION 25.** 49.46 (1) (a) 5. of the statutes is amended to read:

49.46 (1) (a) 5. Any child in an adoption assistance, foster care, kinship care, long-term kinship care or treatment foster care placement under ch. 48 or 938, as determined by the department.

NOTE: See NOTE following the next SECTION.

**SECTION 26.** 49.46 (1) (a) 16. of the statutes is amended to read:

49.46 (1) (a) 16. Any child who is living with a relative who is eligible to receive payments under s. 48.57 (3m) or (3n) with respect to that child, if the department determines that no other insurance is available to the child.

NOTE: Current law provides that certain individuals are eligible for MA, including a child who is in a kinship care placement under ch. 48, stats., as determined by DHFS, or a child who is living with a relative who is eligible to receive kinship care payments with respect to the child, if DHFS determines that no other insurance is available to the child. This bill adds a parallel provision for a long-term kinship care relative, as defined in s. 48.57 (3n), stats., as created by this bill.

**SECTION 27.** 49.96 of the statutes is amended to read:

**49.96 Assistance grants exempt from levy.** All grants of aid to families with dependent children, payments made under ss. 48.57 (3m) or (3n) or 49.148 (1) (b) to 49.159, payments made for social services, cash benefits paid by counties under s. 59.53 (21), and benefits under s. 49.77 or federal Title XVI, are exempt from every tax, and from execution, garnishment, attachment and every other process and shall be inalienable.

NOTE: Current law provides that certain types of assistance payments, including kinship care payments under s. 48.57 (3m), stats., are exempt from levy. This bill adds a parallel exemption for long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill.

**SECTION 27g.** 49.96 of the statutes, as affected by 1997 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

**49.96 Assistance grants exempt from levy.** All grants of aid to families with dependent children, payments made under ss. 48.57 (3m) or (3n), 49.148 (1) (b) 1. or (c) or (1m) or 49.149 to 49.159, payments made for social services, cash benefits paid by counties under s. 59.53 (21), and benefits under s. 49.77 or federal Title XVI, are exempt from every tax, and from execution, garnishment, attachment and every other process and shall be inalienable.

**SECTION 27m.** 50.065 (1) (c) 2. of the statutes, as created by 1997 Wisconsin Act 27, is amended to read:

50.065 (1) (c) 2. Kinship care under s. 48.57 (3m) or long-term kinship care under s. 48.57 (3n).

**SECTION 28.** 767.045 (1) (c) 1. of the statutes is amended to read:

767.045 (1) (c) 1. Aid is provided under s. 46.261, 48.57 (3m) or (3n), 49.19 or 49.45 on behalf of the child, or benefits are provided to the child's custodial parent under ss. 49.141 to 49.161, but the state and its delegate under s. 49.22 (7) are barred by a statute of limitations from commencing an action under s. 767.45 on behalf of the child.

NOTE: With respect to the circumstances under which a guardian ad litem is appointed for a child in an action involving the family when requested by the IV-D attorney, adds a provision to require the court, if so requested, to appoint a guardian ad litem, if long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill, are paid on behalf of the child on the same basis as if kinship care payments under s. 48.57 (3m), stats., are paid on behalf of the child.

**SECTION 29.** 767.075 (1) (c) and (cm) of the statutes are amended to read:

767.075 (1) (c) Whenever aid under s. 46.261, 48.57 (3m) or (3n), 49.19 or 49.45 is provided on behalf of a dependent child or benefits are provided to the child's custodial parent under ss. 49.141 to 49.161.

(cm) Whenever aid under s. 46.261, 48.57 (3m) or (3n), 49.19 or 49.45 has, in the past, been provided on behalf of a dependent child, or benefits have, in the past, been provided to the child's custodial parent under ss. 49.141 to 49.161, and the child's family is eligible for continuing child support services under 45 CFR 302.33.

NOTE: With respect to the circumstances under which the state is a real party in interest for purposes of establishing paternity and securing reimbursement of aid paid, future support and costs as appropriate in an action affecting the family, adds a provision to provide that the state is a real party in interest when long-term kinship care payments under s. 48.57 (3n), stats., as created by the bill, are provided or in the past have been provided on behalf of a dependent child on the same basis as the state is a real party in interest when kinship care payments under s. 48.57 (3m), stats., are provided or in the past have been provided on behalf of a dependent child.

**SECTION 30d.** 767.077 (intro.) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

**767.077 Support for dependent child.** (intro.) The state or its delegate under s. 49.22 (7) shall bring an action for support of a minor child under s. 767.02 (1) (f) or, if appropriate, for paternity determination and child support under s. 767.45 whenever the child's right to support is assigned to the state under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.145 (2) (s), 49.19 (4) (h) 1. b. or 49.775 (2) (bm) if all of the following apply:

NOTE: With respect to when the state must bring an action for paternity determination and child support, adds a provision to require the state to bring such an action when the child's right to support is assigned to the state under the long-term kinship care program under s. 48.57 (3n) (b) 2., stats., as created by the bill, on the same basis as the state is required to bring such an action when the child's right to support is assigned to the state under the kinship care program under s. 48.57 (3m) (b) 2., stats.

**SECTION 31.** 767.078 (1) (a) 2. of the statutes is amended to read:

767.078 (1) (a) 2. The child's right to support is assigned to the state under s. 48.57 (3m) (b) 2. or (3n) (b) 2. or 49.19 (4) (h) 1. b.

NOTE: With respect to orders for a parent to seek employment or to participate in job training in a "case involving a dependent child", as defined in s. 767.078, stats., includes in that definition an action in which the child's right to support is assigned to the state under the long-term kinship care program under s. 48.57 (3n) (b) 2., stats., as created by the bill, on the same basis as that definition includes an action in which the child's right to support is assigned to the state under the kinship care program under s. 48.57 (3m) (b) 2., stats.

**SECTION 32.** 767.29 (1m) (c) of the statutes is amended to read:

767.29 (1m) (c) The party entitled to the support or maintenance money has applied for or is receiving aid to families with dependent children and there is an assignment to the state under s. ~~48.57 (3m) (b) 2.~~ or 49.19 (4) (h) 1. b. of the party's right to the support or maintenance money.

NOTE: See NOTE following the next SECTION.

**SECTION 33.** 767.29 (1m) (cm) of the statutes is created to read:

767.29 (1m) (cm) A kinship care relative or a long-term kinship care relative of the child who is entitled to the support money has applied for or is receiving kinship care payments or long-term kinship care payments for

that child and there is an assignment to the state under s. 48.57 (3m) (b) 2. or (3n) (b) 2. of the child's right to the support money.

NOTE: With respect to the receipt and disbursement of child support and family support payments, permits the clerk of court or the support collection designee to hold any overpayment if a long-term kinship care relative of the child who is entitled to the payment has applied for or is receiving long-term kinship care payments and there is an assignment to the state of the child's right to support under the long-term kinship care program under s. 48.57 (3n) (b) 2., stats., as created by the bill, on the same basis as the clerk of court or the support collection designee may hold any overpayment if a kinship care relative of the child who is entitled to the payment has applied for or is receiving kinship care payments and there is an assignment to the state of the child's right to support under the kinship care program under s. 48.57 (3m) (b) 2., stats.

**SECTION 34.** 767.29 (2) of the statutes is amended to read:

767.29 (2) If any party entitled to maintenance payments or support money, or both, is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department under s. 46.215, 46.22 or 46.23 granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments or support money, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of maintenance payments and support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the clerk of court or support collection designee, upon receiving notice that a party or a minor child of the parties is receiving aid under s. 49.19 or that a kinship care relative or long-term kinship care relative of the minor child is receiving kinship care payments or long-term kinship care payments for the minor child, shall forward all support assigned under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1. or 49.45 (19) to the department.

NOTE: With respect to the receipt and disbursement of child support and family support payments, requires the clerk of court or support collection designee, on receiving notice that a long-term kinship care relative of a minor child who is entitled to child support is receiving long-term kinship care payments, to forward all support assigned under the long-term kinship care program under s. 48.57 (3n) (b) 2., stats., as created by the bill, to DHFS on the same basis as the clerk of court or support collection designee, on receiving notice that a kinship care relative of a minor child who is entitled to child support is receiving kinship care payments, forwards all sup-

port assigned under the kinship care program under s. 48.57 (3m) (b) 2., stats., to DHFS.

**SECTION 34g.** 767.29 (2) of the statutes, as affected by 1997 Wisconsin Acts 27 and .... (this act), is repealed and recreated to read:

767.29 (2) If any party entitled to maintenance payments or support money, or both, is receiving public assistance under ch. 49, the party may assign the party's right thereto to the county department under s. 46.215, 46.22 or 46.23 granting such assistance. Such assignment shall be approved by order of the court granting the maintenance payments or support money, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of maintenance payments and support money previously ordered or adjudged to be paid to the assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of maintenance payments or support money, or both, has been approved by the order, the assignee shall be deemed a real party in interest within s. 803.01 but solely for the purpose of securing payment of unpaid maintenance payments or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof. Notwithstanding assignment under this subsection, and without further order of the court, the department or its designee, upon receiving notice that a party or a minor child of the parties is receiving public assistance under ch. 49 or that a kinship care relative or long-term kinship care relative of the minor child is receiving kinship care payments or long-term kinship care payments for the minor child, shall forward all support assigned under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1. or 49.45 (19) to the assignee under s. 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1. or 49.45 (19).

**SECTION 35.** 767.29 (4) of the statutes is amended to read:

767.29 (4) If an order or judgment providing for the support of one or more children not receiving aid under s. 48.57 (3m) or (3n) or 49.19 includes support for a minor who is the beneficiary of aid under s. 48.57 (3m) or (3n) or 49.19, any support payment made under the order or judgment is assigned to the state under s. 48.57 (3m) (b) 2. or (3n) (b) 2. or 49.19 (4) (h) 1. b. in the amount that is the proportionate share of the minor receiving aid under s. 48.57 (3m) or (3n) or 49.19, except as otherwise ordered by the court on the motion of a party.

NOTE: With respect to the receipt and disbursement of child support and family support payments, requires a support payment under an order that provides both for the support of a child who is not receiving aid under the long-term kinship care program and for the support of a child who is receiving that aid to be assigned to the state under the long-term kinship care program under s. 48.57 (3n) (b) 2., stats., as created by the bill, in an amount that is the proportionate share of the child receiving that aid on the same basis as a support payment under an order that provides both for the support of a child who is not receiving aid under the kinship care program and for the

support of a child who is receiving that aid must be assigned to the state under the kinship care program under s. 48.57 (3m) (b) 2., stats., in an amount that is the proportionate share of the child receiving that aid.

**SECTION 36d.** 767.32 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

767.32 (1) (a) After a judgment or order providing for child support under this chapter or s. 48.355 (2) (b) 4., 48.357 (5m), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m), 938.363 (2) or 948.22 (7), maintenance payments under s. 767.26 or family support payments under this chapter, or for the appointment of trustees under s. 767.31, the court may, from time to time, on the petition, motion or order to show cause of either of the parties, or upon the petition, motion or order to show cause of the department, a county department under s. 46.215, 46.22 or 46.23 or a county child support agency under s. 59.53 (5) if an assignment has been made under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) or 49.45 (19) or if either party or their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49, and upon notice to the family court commissioner, revise and alter such judgment or order respecting the amount of such maintenance or child support and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment or order respecting any of the matters that such court might have made in the original action, except that a judgment or order that waives maintenance payments for either party shall not thereafter be revised or altered in that respect nor shall the provisions of a judgment or order with respect to final division of property be subject to revision or modification. A revision, under this section, of a judgment or order with respect to an amount of child or family support may be made only upon a finding of a substantial change in circumstances. In any action under this section to revise a judgment or order with respect to maintenance payments, a substantial change in the cost of living by either party or as measured by the federal bureau of labor statistics may be sufficient to justify a revision of judgment or order with respect to the amount of maintenance, except that a change in an obligor's cost of living is not in itself sufficient if payments are expressed as a percentage of income.

**SECTION 37d.** 767.47 (6) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

767.47 (6) (a) Whenever the state brings the action to determine paternity pursuant to an assignment under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h) 1. or 49.45 (19), or receipt of benefits under s. 49.148, 49.155, 49.157 or 49.159, the natural mother of the child may not be compelled to testify about the paternity of the child if it has been determined that the mother has good cause for refusing to cooperate in establishing paternity as provided in 42 USC 602 (a) (26) (B) and the federal regulations promulgated pursuant to this statute, as of

July 1, 1981, and pursuant to any rules promulgated by the department which define good cause in accordance with the federal regulations, as authorized by 42 USC 602 (a) (26) (B) in effect on July 1, 1981.

(b) Nothing in par. (a) prevents the state from bringing an action to determine paternity pursuant to an assignment under s. 48.57 (3m) (b) 2. ~~or (3n) (b) 2.~~, 49.19 (4) (h) 1. or 49.45 (19), or receipt of benefits under s. 49.148, 49.155, 49.157 or 49.159, where evidence other than the testimony of the mother may establish the paternity of the child.

NOTE: With respect to testimony and evidence relating to paternity, adds a provision to include a reference to the state bringing an action to determine paternity pursuant to an assignment of the child's right to support under the long-term kinship care program under s. 48.57 (3n) (b) 2., stats., as created by the bill, on the same basis as there is a reference to the state bringing an action to determine paternity pursuant to an assignment of the child's right to support under the kinship care program under s. 48.57 (3m) (b) 2., stats.

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**SECTION 39d. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 50.065 (1) (c) 2. of the statutes takes effect on October 1, 1998, or on the day after publication, whichever is later.

(2) The repeal and recreation of section 49.96 of the statutes takes effect on February 1, 1999.

(3) The amendment of section 20.445 (3) (r) of the statutes and the repeal and recreation of section 767.29 (2) of the statutes take effect on the date stated in the notice published by the department of workforce development in the Wisconsin Administrative Register under section 767.29 (1) (f) of the statutes, as created by 1997 Wisconsin Act 27, or on October 1, 1999, whichever is earlier.